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ABSTRACT

This manual presents the body of laws, regulations, and practices related to attendance accounting and reporting in California public schools. Following the introduction, section 1 presents information on compulsory attendance, including residency requirements, interdistrict transfers, exemptions, absences, and truancy. Section 2 provides guidelines for understanding school admission policy and immunization requirements. The third section describes the apportionment-calculation process in terms of absences, instructional time requirements, emergencies and apportionment credit, and apportionment consequences of interdistrict/interstate attendance. Section 4 outlines procedures unique to particular programs, such as adult education, public college attendance, continuation education, county community schools, home/hospital instruction, independent study, juvenile court schools, opportunity education, regional occupational centers and programs, weekend classes, vocational education, and year-round education. The final section offers guidelines for attendance reports and recordkeeping, including basic requirements, software approval, and audits. Two indexes are included. (LMI)

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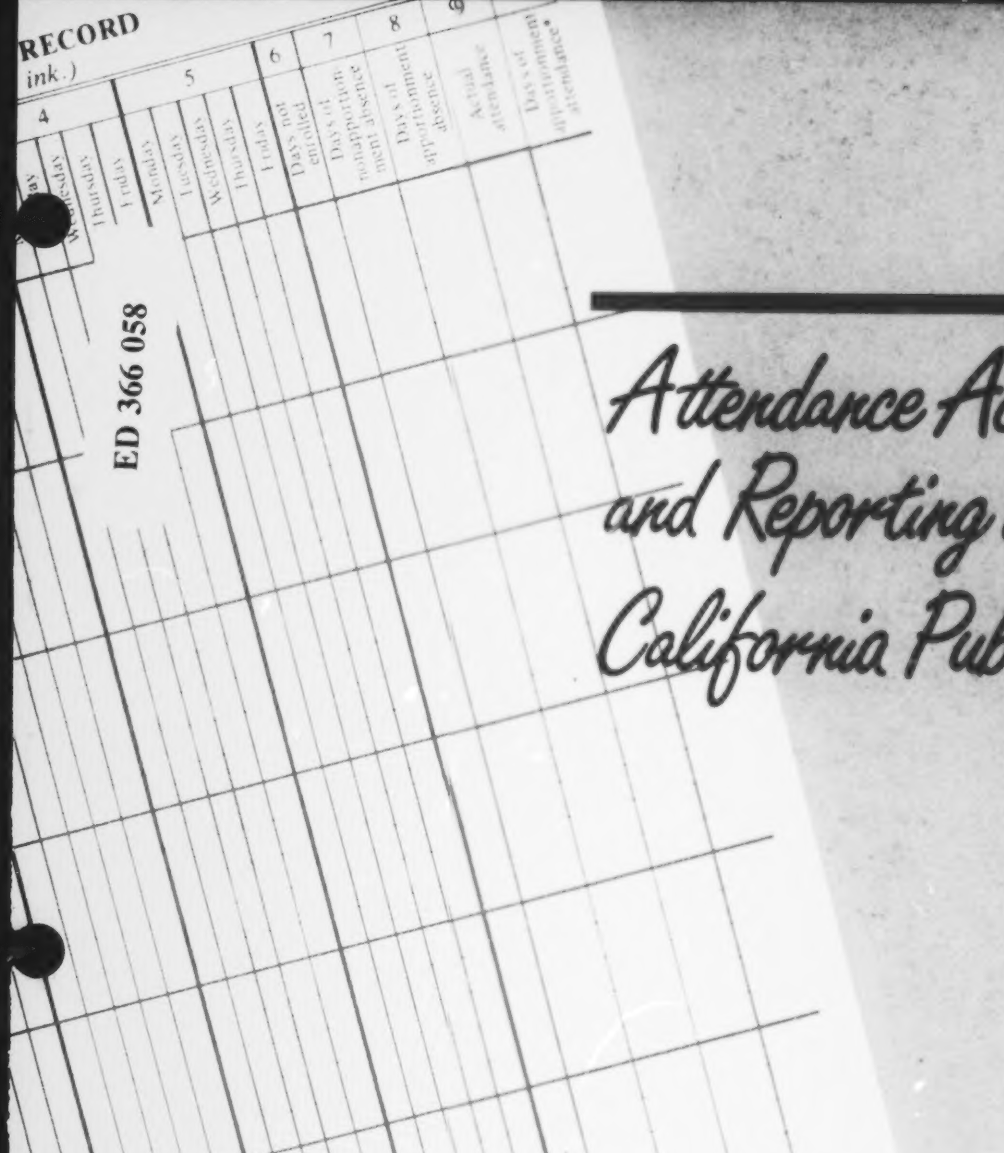

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Advice to Users

This edition of *Attendance Accounting and Reporting in California Public Schools* attempts to present the body of laws, regulations, and practices that it comprises in as logical and accessible a manner as possible. Because this manual's users span such a wide range, however--from local administrators and attendance officials with immediate hands-on knowledge, to managers and analysts in state government who need to familiarize themselves with general concepts before delving into detail--the manual's contents represent a considered compromise between exhaustiveness and utility. A few extensive sub-areas (Adult Education, Regional Occupational Centers and Programs) are covered only in essential outline, and the very large and complex field of Special Education is entirely beyond the manual's scope. (Those seeking information on attendance accounting and reporting in Special Education should see the California Department of Education [CDE] publications *Special Education J-50 Questions and Answers* and *California Special Education Programs: A Composite of Laws.)*

Users of this manual who seek further information on particular aspects of attendance accounting by calling or writing CDE often learn that previous CDE Program and Fiscal Management Advisories provide a considerable amount of helpful detail and comment on selected issues. Most school district offices maintain files of these advisories, and local officials can frequently find the answers to their questions by consulting those files on their own.

Users should also note that many statutory elements of attendance accounting may be waived under the "general" waiver authority of the State Board of Education (SBE), and virtually all others may be waived in particular circumstances under various "specific" waiver authorizations given to the State Superintendent of Public Instruction and the SBE. While waivers generally are outside the scope of this manual, one specific set of waiver statutes applying to instructional time is included for convenience in Chapter III.

Citations in this manual to sections of the California Education Code are preceded simply by the word "Section" or by the "§" symbol (for example, "Section 48200"). Citations to sections of the California Health and Safety Code are preceded by the letters "HSC" (for example, "HSC §3780"). Citations to sections of the California Code of Regulations (formerly known as the California

Administrative Code) are preceded by the Title (main subdivision) number--5 for Education, 17 for Health and Safety--and the letters "CCR" (for example, "5 CCR 300").

To the extent that this manual contains guidelines in addition to recitation of the law, the guidelines are exemplary only and compliance with them is not mandatory.

The Role of Attendance Accounting

The two basic functions of attendance accounting

Through the process of attendance accounting, California's local education agencies keep track of the attendance and absence of pupils for two main purposes:

- compliance with state compulsory attendance (or "truancy") law
- proper allocation of state educational funding apportionments.

Definitions and basic terminology

The attendance accounting process produces what is known as an "audit trail"--the set of records substantiating every specified fact relevant to compliance with compulsory attendance law and apportionment of state funds.

In different educational settings attendance and absence are recorded in different ways. In what is customarily termed "negative" attendance accounting, generally used for the regular classes that are reported in whole minimum days, the person taking attendance makes a mark in the attendance record only if a pupil is *not* in attendance for the entire time prescribed; only absences are noted. Under the correspondingly named "positive" attendance accounting, better adapted to use in classes that have no daily minimum but are instead reported in hours and portions of hours, the person taking attendance makes a mark in the record for each pupil who *is* in attendance during the scheduled hour or portion of an hour; presence rather than absence is noted.

The basic measure of attendance in California's school system is known as "average daily attendance" or "a.d.a.," usually computed as the number of student-days of creditable attendance divided by the number of days school was in session. For each unit of verified a.d.a. as of a specified date, a district receives an amount of "apportionment" funding from the State School Fund set out in the then current State Budget Act.

A district's thoroughness in classifying and verifying student absences has clear financial implications, because California law provides that certain absences (known as "apportionment-excused absences") are not only not truancies, they also may be credited for apportionment purposes as student-days of attendance when computing a.d.a. Certain other absences (known as "justifiable personal absences"), while not creditable for apportionment, are also not classified as truancies--that is, they are not violations of the compulsory attendance law.

Terms and Distinctions

Regular vs. continuation education

California's compulsory attendance laws require all children from six to 18, unless exempted or excluded, to attend school full time. The Education Code lists the exemptions and bases for exclusion, defines "full time" and "attend," and delineates what constitutes a school. All pupils ages six through 15 must conform to the rules of regular compulsory attendance, whereas some 16- and 17-year-old pupils may be subject to the rules of continuation education.

Although in practice attendance in regular schools is the norm and continuation education an alternative, the law formally provides for the reverse: §48400 states that "All persons 16 years of age or older, and under 18 years of age, not otherwise exempted by this chapter, shall attend upon special continuation education classes..."; full-time attendance in regular education (among other specified alternatives) technically exempts pupils from this baseline continuation requirement (see "Continuation Education" in Chapter IV).

Basic compulsory attendance law

The basic compulsory attendance law is:

> **§48200.** Each person between the ages of 6 and 18 years not exempted under the provisions of this chapter or Chapter 3 (commencing with Section 48400) is subject to compulsory full-time education. Each person subject to compulsory full-time education and each person subject to compulsory continuation education not exempted under the provisions of Chapter 3 (commencing with Section 48400) shall attend the public full-time day school or continuation school or classes for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located and each parent, guardian, or other person having control or charge of the pupil shall send the pupil to the public full-time day school or continuation school or classes for the full time designated as the length of the schoolday by the governing board of the school district in which the residence of either the parent or legal guardian is located.
>
> Unless otherwise provided for in this code, a pupil shall not be enrolled for less than the minimum schoolday established by law.

Terms and Distinctions
(continued)

5 CCR 300. Every pupil shall attend school punctually and regularly....

Residency and §48204

A pupil must attend school in the district containing the residence of the pupil's parent or legal guardian, unless attendance elsewhere is indicated by interdistrict attendance agreement (see "Interdistrict Attendance," following), or by other provision of law. Section 48204 specifies alternative criteria for determining "residency," including, in subsection (f), school attendance based on parent's/guardian's place of employment:

> **§48204.** Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is any of the following:
>
> (a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part I of Division 2 of the Welfare and Institutions Code. An agency placing a pupil in such a home or institution shall provide evidence to the school that the placement or commitment is pursuant to law.
>
> (b) A pupil for whom interdistrict attendance has been approved pursuant to Chapter 5 (commencing with Section 46600) of Part 26 of Division 3 of this title.
>
> (c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of responsibility, control, and authority through emancipation.
>
> (d) A pupil whose parent or legal guardian has established the residence of the pupil in a home located within the boundaries of that school district, provided such home is properly licensed as required by law. The person maintaining such a home shall provide evidence to the school that a current license is in effect or that a license is not required under the law. [Note that the homes of relatives are exempted from the licensing otherwise required by provisions of the Health and Safety Code, as detailed in Title 22 of the CCR. The applicable definition of "relative" is in:
>
> > **22 CCR 80001.**
> >
> > (a)* * *(43) "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great" or the spouse of any of the persons specified in this definition, even after the marriage has been terminated by death or dissolution.]

Residency and §48204

(continued)

(e) A pupil residing in a state hospital located within the boundaries of that school district.

(f) An elementary school pupil, one or both of whose parents or whose legal guardian, is employed within the boundaries of that school district.

(1) Nothing in this subdivision requires the school district within which the pupil's parents or guardians are employed to admit the pupil to its schools. Districts may not, however refuse to admit pupils under this subdivision on the basis, except as expressly provided in this subdivision, of race, ethnicity, sex, parental income, scholastic achievement, or any other arbitrary consideration.

(2) The school district in which the residency of either the pupil's parents or guardians is established, or the school district to which the pupil is to be transferred under this subdivision, may prohibit the transfer of the pupil under this subdivision if the governing board of the district determines that the transfer would negatively impact the district's court-ordered or voluntary desegregation plan.

(3) The school district to which the pupil is to be transferred under this subdivision may prohibit the transfer of the pupil if the district determines that the additional cost of educating the pupil would exceed the amount of additional state aid received as a result of the transfer.

(4) Any district governing board prohibiting a transfer pursuant to paragraph (1), (2), or (3) shall identify, and communicate in writing to the pupil's parent or guardian, the specific reasons for that determination and shall ensure that the determination and the specific reasons therefor, are accurately recorded in the minutes of the board meeting in which the determination was made.

(5) The average daily attendance for pupils admitted pursuant to this subdivision shall be calculated pursuant to Section 46616.

(6) Unless approved by the sending district, this subdivision does not authorize a net transfer of pupils out of any given district, calculated as the difference between the number of pupils exiting the district and the number of pupils entering the district, in any fiscal year in excess of the following amounts:

(A) For any district with an average daily attendance for that fiscal year of less than 501, 5 percent of the average daily attendance of the district.

(B) For any district with an average daily attendance for that fiscal year of 501 or more, but less than 2501,

Residency and §48204
(continued)

3 percent of the average daily attendance of the district or 25 pupils, whichever is greater.

(C) For any district with an average daily attendance of 2501 or more, 1 percent of the average daily attendance of the district or 75 pupils, whichever is greater.

(7) Pursuant to this subdivision, districts shall report annually to the Superintendent of Public Instruction all of the following:

(A) The number of requests for interdistrict transfers.

(B) The number of students transferred out of the district.

(C) The number of students transferred into the district.

The State Department of Education shall summarize the school district reports and report to the Legislature annually. The report shall include the data described in Section 48204.1.

Once a pupil is deemed to have complied with the residency requirements for school attendance pursuant to this subdivision and is enrolled in a school in a school district whose boundaries include the location where one parent or both parents of a pupil is employed, or where a pupil's legal guardian is employed, the pupil shall not have to reapply in the next school year to attend a school within that school district.

* * *

For elementary school children, §48204(f) sets out the conditions under which a parent's place of *employment* may establish a child's right to attend in a district other than that of his/her residence. Any interdistrict attendance pursuant to §48204(f) is subject to limitations and restrictions, especially if such attendance will affect desegregation plans or create financial hardship for the district of attendance; certain parental notification is also specified.

Note that decisions on residency pursuant to §48204(f) are *not* subject to appeal to any agency other than the local school boards involved, unlike interdistrict transfers (under §46600 and following), which can be appealed to county boards of education.

When a pupil suffers a temporary or intermittent disability that prevents school attendance, his/her parent/guardian is responsible for notifying the school district and taking appropriate action to ensure that the pupil continues to receive instruction. The rules for

Residency and §48204

(continued)

home/hospital instruction then apply (see "Home/Hospital Instruction" in Chapter IV).

If a parent/guardian changes residence, his/her responsibility under §48200 remains:

> **§48201.** Except for pupils exempt from compulsory school attendance under Section 48231, any parent, guardian, or other person having control or charge of any minor between the ages of 6 and 18 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

An exception occurs when a pupil (aged 12-18) moves into California from outside the state within 10 schooldays of the end of the school term (see "Exemptions and Exclusions from Full-Time Regular Education," following).

Interdistrict Transfers

As contrasted with intradistrict attendance

Interdistrict transfers are to be distinguished from choice of school *within* a district (*intradistrict* transfer), which is entirely in the reasonable control of each district's governing board. Outside agencies and special statutes can play a role in deciding which school a pupil may attend only when two different districts are involved.

Formal attendance agreements between districts

Arrangements between school districts to accommodate interdistrict attendance must include certain provisions:

> **§46600.** (a) The governing boards of two or more school districts may enter into an agreement, for a term not to exceed five school years, for the interdistrict attendance of pupils who are residents of the districts. The agreement may provide for the admission to a district other than the district of residence of a pupil who requests a permit to attend a school district that is a party to the agreement and that maintains schools and classes in kindergarten or any of grades 1 to 12, inclusive, to which the pupil requests admission. The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. The supervisor of attendance of the district of residence shall issue an individual permit verifying the district's approval, pursuant to policies of the board and terms of the agreement, for the transfer and for the applicable period of time. A permit shall be valid upon concurring endorsement by the designee of the governing board of the district of proposed attendance. The stipulation of the terms and conditions under which the permit may be revoked is the responsibility of the district of attendance.
>
> * * *

Specific provisions apply to the interdistrict attendance of pupils who have been expelled:

> **§46600.**
>
> * * *
>
> (b) Agreements and permits provided for under this section [see preceding] are not applicable to expelled pupils. Regardless of whether an agreement exists or a permit is issued, any district may admit a pupil expelled from another district in which the pupil continues to reside.

While §46600(b) provides that any district *may* admit a non-resident expelled pupil, interdistrict agreement or no, a later enacted statute provides that after making certain

Interdistrict Transfers
(continued)

findings--and pursuant to an interdistrict agreement--a district *must* enroll such a pupil:

> **§48915.1**
>
> * * *
>
> (e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for any act described in paragraphs (1) to (4), inclusive, of subdivision (a) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts.

Additional sections on agreements between districts pertain to newly formed districts and to districts in which facilities considerations may indicate interdistrict attendance arrangements:

> **§46605.** The governing board of any school district may admit to the schools or classes maintained in the district any pupils who reside in another school district during any of the first three fiscal years of existence for all purposes of the district of residence, whenever an agreement is entered into between the governing boards stipulating the terms upon which the interdistrict attendance is permitted. Average daily attendance pursuant to this section is not included for purposes of declining enrollment calculations as prescribed by Section 42239.5.
>
> **§46304.** Notwithstanding anything in this code to the contrary when as a result of the unification or other reorganization of school districts, or the change of school district boundaries, and if the Superintendent of Public Instruction determines that a school district in which pupils reside does not have suitable quarters in which to maintain school for all the day pupils of the district, or that for other good and sufficient reasons the education of pupils in the district in which they reside is not practical or in the best interests of such pupils, the governing board of the district of residence shall contract with the governing board of another school

Interdistrict Transfers
(continued)

district for the education of those pupils for whom suitable quarters are not available, or who should be educated in another district, as determined by the Superintendent of Public Instruction. No contract for the education of pupils under this paragraph shall be authorized subsequent to the close of the third fiscal year following that in which the district of residence is formed or reorganized, or the boundaries of the district changed, for all purposes.

Such contract shall provide for the payment of tuition in such amount and in the manner as may be agreed upon by the governing board of the district of attendance and the governing board of the district of residence. The tuition agreed upon shall not be an amount in excess of the actual cost to the district of attendance for the education of such pupils, less federal funds apportioned or allocated to the district of attendance on account of such pupils, and shall be payable during the current school year of attendance.

Any contract for the education of pupils residing in a school district made by the governing board of the district in accordance with the provisions of this section shall be deemed for all purposes to be or have been the maintenance of a school within the boundaries of the district. The average daily attendance of all pupils attending school in a district other than the district in which they reside, pursuant to such contract, shall be credited to the district of residence for apportionment purposes.

The provisions of this section shall apply to any contract made by governing boards of school districts pursuant to this section during the fiscal year 1953-54, and thereafter, and attendance of pupils under such a contract shall be credited in the manner prescribed by this section.

Parent-initiated interdistrict attendance

A parent/guardian may directly request an interdistrict transfer. If either district or both of them reject the request, obligations ensue concerning notification within a set time--and the parent/guardian has a right to appeal the decision to the county board of education:

§46601. If, within 30 calendar days after the person having legal custody of a pupil has so requested, the governing board of either school district fails to approve interdistrict attendance in the current term, or, in the absence of an agreement between the districts, fails or refuses to enter into an agreement, the district denying the permit, or, in the absence of an agreement, the

Interdistrict Transfers
(continued)

district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

If, within 14 calendar days after the commencement of instruction in a new term in each of the school districts, respectively, when the person having legal custody of a pupil has so requested separately of each district not later than 30 calendar days prior to the commencement of instruction in that term in that district, the governing board of either district fails to approve interdistrict attendance in that term, or, in the absence of an agreement between the districts to permit that attendance, fails or refuses to enter an agreement, the district denying the permit, or, in the absence of an agreement, the district of residence, shall advise the person requesting the permit of the right to appeal to the county board of education.

Notifying districts shall also, in all instances, advise persons making unsuccessful requests for interdistrict attendance of all of the following:

(a) The person having legal custody may appeal, within 30 calendar days of the failure or refusal to issue a permit, or to enter into an agreement allowing the attendance, to the county board of education having jurisdiction over the district of residence of the parent or legal guardian or person having legal custody. Failure to appeal within the required time is good cause for denial of an appeal. An appeal shall be accepted only upon verification by the county board's designee that appeals within the districts have been exhausted. If new evidence or grounds for the request are introduced, the county board may remand the matter for further consideration by the district or districts. In all other cases, the appeal shall be granted or denied on its merits.

(b) The county board of education shall, within 30 calendar days after the appeal is filed, determine whether the pupil should be permitted to attend in the district in which he desires to attend and the applicable period of time. In the event that compliance by the county board within the time requirement for determining whether the pupil should be permitted to attend in the district in which he or she desires to attend is impractical, the county board or the county superintendent of schools, for good cause, may extend the time period for up to an additional five school days. The county shall provide adequate notice to all parties of the date and time of any hearing scheduled and of the opportunity to submit written statements and

Interdistrict Transfers
(continued)

> documentation and to be heard on the matter pursuant to rules and regulations adopted by the county board of education. The county board rules may provide for the granting of continuances upon a showing of good cause.
>
> (c) The county supervisor of attendance, or other designee of the county superintendent of schools, shall investigate to determine whether local remedies in the matter have been exhausted and to provide any additional information deemed useful to the county board in reaching a decision.
>
> (d) If the interdistrict attendance involves school districts located in different counties, the county board of education having jurisdiction over the district denying a permit, or refusing or failing to enter into an agreement to allow for the issuance of a permit, shall have jurisdiction for purposes of an appeal. If both districts deny a permit, or refuse or fail to enter into an agreement to allow for the issuance of a permit, the county board having jurisdiction over the district of residence shall have jurisdiction for purposes of an appeal and, upon granting a pupil's appeal, shall seek concurrence in the decision by the county board of the other county which shall provide adequate opportunity for the district under its jurisdiction to be heard on the matter before making a decision. If the two county boards do not then concur, the pupil's appeal shall be denied.
>
> (e) Students who are under consideration for expulsion or who have been expelled pursuant to Sections 48915 and 48918, may not appeal interdistrict attendance denials or recisions while expulsion proceedings are pending, or during the term of the expulsion.

Note that the transfer sections contain no criteria for the granting of requests, providing only that "The agreement shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied," and that "the appeal shall be granted or denied on its merits." Note also that §46601(e) limits the right of appeals for pupils under consideration for expulsion (see also §§46600(b) and 48915.1(e) on expelled pupils).

Section §46601.5 requires school boards to "give consideration to" child care needs when deciding whether to permit interdistrict transfers:

> **§46601.5.** (a) The governing boards of any two school districts that have been requested by a pupil's parent or legal guardian, to enter into an agreement for

Interdistrict Transfers
(continued)

> interdistrict attendance pursuant to Section 46600, shall, in considering that request, give consideration to the child care needs of the pupil.
>
> * * *

This requirement does *not* mean, however, that child care needs must be determinative.

While an agreement is pending, temporary provisional attendance is possible:

> **§46603.** For a period not to exceed two school months the governing board of a school district may provisionally admit to the schools of the district a pupil who resides in another district, pending a decision of the two boards, or by the county board of education upon appeal, regarding the interdistrict attendance. Regardless of whether the decision on interdistrict attendance is allowed, the provisional attendance may be counted by the district of attendance for revenue limit and state apportionment purposes.

Note that "school month" is defined in §37201 as four weeks of five schooldays each.

Once approved on appeal, interdistrict attendance is to begin without delay, with appropriate written communication required:

> **§46602.** If the county board of education determines that the pupil should be permitted to attend in the district in which he or she desires to attend, the pupil shall be admitted to school in the district without delay and the attendance may be counted by the district of attendance for revenue limit and state apportionment purposes. Written notice of the decision by the county board of education shall be delivered to the pupil and the parent or guardian, or person having custody of him or her, and to the governing boards of the districts.

For interdistrict regional occupational center/program attendance, see "Regional Occupational Centers and Programs" in Chapter IV.

Exemptions and Exclusions from Full-Time Regular Education

Continuation education

Pupils are exempted from regular compulsory attendance if they are properly attending a continuation education school or if they meet one or more of the criteria discussed in this section.

Private school

Pupils educated privately may be exempt from compulsory attendance in the public schools, but private schools must maintain records of the pupils' attendance and fulfill the other requirements of §48222, including verification that the private school is in compliance with applicable law:

> **§48222.** Children who are being instructed in a private full-time day school by persons capable of teaching shall be exempted. Such school shall, except under the circumstances described in Section 30, be taught in the English language and shall offer instruction in the several branches of study required to be taught in the public school of the state. The attendance of the pupils shall be kept by private school authorities in a register, and the record of attendance shall indicate clearly every absence of the pupil from school for a half a day or more during each day that school is maintained during the year.
>
> Exemptions under this section shall be valid only after verification by the attendance supervisor of the district, or other person designated by the board of education, that the private school has complied with the provisions of Section 33190 requiring the annual filing by the owner or other head of a private school of an affidavit or statement of prescribed information with the Superintendent of Public Instruction. The verification required by this section shall *not* be construed as an evaluation, recognition, *approval*, or endorsement of any private school or course. (emphasis added)
>
> **§48223.** Children who are mentally gifted and who are being instructed in a private full-time day school by persons capable of teaching, where all or part of the courses of instruction required to be taught in the public schools of this state is taught in a foreign language with not less than 50 percent of the total daily instructional time taught in the English language, shall be exempted. The attendance of the pupils shall be kept pursuant to Section 48222.

Tutoring by credentialed person

Private tutoring by a credentialed person (who may be the pupil's parent/guardian) must conform to the requirements of §48224 to exempt the pupil:

Exemptions and Exclusions from Full-Time Regular Education
(continued)

> **§48224.** Children not attending a private, full-time, day school who are being instructed in study and recitation for at least three hours a day for 175 days each calendar year by a private tutor or other person in the several branches of study required to be taught in the public schools of this state and in the English language shall be exempted. The tutor or other person shall hold a valid state credential for the grade taught. The instruction shall be offered between the hours of 8 o'clock a.m. and 4 o'clock p.m.

Newly arrived from out of state

An older pupil who moves into California from outside the state within 10 schooldays of the end of the school term is exempted for the rest of that school term:

> **§48231.** Notwithstanding Section 48201, pupils between 12 and 18 years of age who enter an attendance area from another state within 10 schooldays before the end of the school term during which such entrance occurs are exempt for the remainder of the school term.

Leave of absence

A pupil who takes a properly constituted leave of absence is not in violation of the compulsory attendance law. Under specific conditions, including written approvals and contracts, a child 15 or older may take a leave of absence for up to one semester (which may be extended an additional semester) for "supervised travel, study, training, or work not available to the student under another education option":

> **§48232.** Notwithstanding any other provision of law, a child who will be 15 years old at the time a leave of absence is to begin may take a leave of absence for a period of up to one semester, if all of the following conditions are satisfied:
>
> (a) The school district governing board adopts a written policy to allow student leaves of absence consistent with this section.
>
> (b) The purpose of the leave is supervised travel, study, training, or work not available to the student under another education option.
>
> (c) A written agreement is entered into that is signed by the child's parent or guardian, the principal or administrative officer of the school which the child would otherwise attend, a classroom teacher familiar with the child's academic progress selected by the child, and the district supervisor of child welfare and attendance, and that provides for all of the following:

Exemptions and Exclusions from Full-Time Regular Education

(continued)

(1) The purpose of the leave.

(2) The length of time the child will be on leave.

(3) A meeting between, or contact with, the child and a school official designated in the agreement at least once a month while the child is on leave.

(4) A statement incorporating the provisions contained in subdivision (b).

(d) The child shall be entitled to return to school at any time. No child who takes a leave of absence shall be penalized from completing his or her academic requirements within a time period equal to that of classmates who did not take a leave of absence, plus a period of time equal to the leave of absence. However, when a child reenrolls at any time other than at the beginning of a semester, the school shall not be required to give makeup sessions during that semester for the classes that the child has missed.

(e) A leave of absence may be extended for an additional semester upon approval by all parties to the written agreement and the local school attendance review board.

(f) No leave of absence may be taken which would continue past the end of the school year in which the leave is taken.

(g) If the student does not contact the designated school official as stipulated in the written agreement, the leave of absence shall be nullified.

(h) No more than 1 percent of the students enrolled and in attendance at each school shall be permitted to take a leave of absence during each academic year.

* * *

Full-time community college

A pupil who, with permission, attends community college full-time is exempted from attending his or her district's schoolday but must still "take courses of a scope and duration sufficient to satisfy the requirements of law":

> **§48800.5.** (a) A parent or guardian of any pupil, regardless of the pupil's age or class level, may petition the governing board of the school district in which the pupil is enrolled to authorize the attendance of the pupil at a community college as a special full-time student on the ground that the pupil would benefit from advanced scholastic or vocational work that would thereby be available. If the governing board denies the petition, the pupil's parent or guardian may file an appeal with the county board of education, which shall render a final decision on the petition.

Exemptions and Exclusions from Full-Time Regular Education
(continued)

Any pupil who attends a community college as a special full-time student pursuant to this section is exempt from compulsory school attendance under Chapter 2 (commencing with Section 46100) of Part 26.

* * *

(c) Any pupil authorized to attend a community college as a special full-time student shall, nevertheless, be required to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law.

* * *

Exclusion from regular education

Certain pupils are *excluded* from attendance in the regular public schools, for reasons of age, physical or mental condition, or in the interests of public health (see "Immunization Exclusions," following); §48210 excludes *all* children younger than six, except as specifically provided in sections setting out kindergarten eligibility.

Absences and Compulsory Attendance

Local board sets schoolday length

For the purposes of the state compulsory attendance law (§48200), pupils "shall attend...for the full time designated as the length of the schoolday by the governing board of the school district...," as set out in:

> **§46100.** The governing board of the school district shall, subject to the provisions of this chapter, fix the length of the schoolday for the several grades and classes of the schools maintained by the district.

A pupil generally must attend at least this locally specified day to satisfy the compulsory attendance law. To qualify for state apportionment funds, the school or district must schedule the pupil for a schoolday that at least meets the time requirements of other state laws (see "Instructional Time Requirements" in Chapter III). Hence, it is possible for a pupil to be present for apportionment purposes, but mostly absent or truant for compulsory attendance, all in the same day--as with a pupil who attends part of a day and then is absent without acceptable excuse for the remainder.

Justifiable personal absences: §48205

Pupils who miss school under certain conditions for justifiable personal reasons (§48205), or for one of the reasons specified in §46010 (apportionment excused absences), and who properly document their absences are not in violation of the compulsory attendance law (see "Absences" in Chapter III).

Obligation of parent/guardian to account for children's absences

The CCR addresses the basic authority of teachers and principals to compel parents/guardians to account for their children's absences:

> **5 CCR 306.** A principal or teacher may require satisfactory explanation from the parent or guardian of a pupil, either in person or by written note, whenever the pupil is absent a part or all of a school day. The explanation shall not be required until the day following.

Truancy

Definition

Unless they are exempt, excluded, or excused, pupils not attending are to be considered "truant" if they meet the definition given in §48260:

> **§48260.** Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without valid excuse more than three days or tardy in excess of 30 minutes on each of three or more days in one school year is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

Need not be full day

A truancy absence need not be a full-day absence: a pupil may become truant when s/he fails to attend the local board-specified number of minutes in a given day; unauthorized partial-day absences are included in the definition of truancy, in light of §§48200 and 46100.

Districts obligated to notify parent/guardian of truant

School districts incur obligations to notify truant pupils' parents/guardians:

> **§48260.5.** (a) Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian, by first-class mail or other reasonable means, of the following:
> (1) That the pupil is truant.
> (2) That the parent or guardian is obligated to compel the attendance of the pupil at school.
> (3) That parents or guardians who fail to meet this obligation may be guilty of an infraction and subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27.
> (b) The district shall also inform the parents or guardians of the following:
> (1) Alternative educational programs available in the district.
> (2) The right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.

Consequences of repeated/habitual truancy

Further consequences ensue for repeated or habitual truancy:

> **§48261.** Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

Truancy
(continued)

§48262. Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or 48261.

Legal implications for parents of truant pupils

Parents or guardians may be held legally responsible for ensuring that children under their control comply with truancy laws; §48290 and following detail the legal obligations of parents, and the penalties for non-compliance:

§48290. The governing board of any school district, shall, on the complaint of any person, make full and impartial investigation of all charges against any parent, guardian, or other person having control or charge of any child, for violation of any of the provisions of this chapter.

§48291. If it appears upon investigation that any parent, guardian, or other person having control or charge of any child has violated any of the provisions of this chapter, the secretary of the board of education, except as provided in Section 48292, or the clerk of the board of trustees, shall refer such person to a school attendance review board. In the event that any such parent, guardian, or other person continually and willfully fails to respond to directives of the school attendance review board or services provided, the school attendance review board shall direct the school district to make and file in the proper court a criminal complaint against the parent, guardian, or other person, charging the violation, and shall see that the charge is prosecuted by the proper authority. In the event that a criminal complaint is not prosecuted by the proper authority as recommended, the official making the determination not to prosecute shall provide the school attendance review board with a written explanation for the decision not to prosecute.

§48292. In counties, cities, and cities and counties, and in school districts having an attendance supervisor, the attendance supervisor shall make and file the complaint provided for by this article and shall see that the charge is prosecuted by the proper authorities.

Truancy
(continued)

> **§48293.** (a) Any parent, guardian, or other person having control or charge of any pupil who fails to comply with the provision of this chapter, unless excused or exempted therefrom, is guilty of an infraction, and shall be punished as follows:
>
> (1) Upon a first conviction, by a fine of not more than one hundred dollars ($100).
>
> (2) Upon a second or subsequent conviction, by a fine of not more than two hundred fifty dollars ($250).
>
> (3) In lieu of imposing the fines prescribed in paragraphs (1) and (2), the court may order such person to be placed in a parent education and counseling program.
>
> (b) A judgment that a person convicted of an infraction be punished as prescribed in subdivision (a) may also provide for the payment of the fine within a specified time or in specified installments, or for participation in the program. A judgment granting a defendant time to pay the fine or prescribing the days of attendance in a program shall order that if the defendant fails to pay the fine, or any installment thereof, on the date that it is due, or fails to attend a program on a prescribed date, he or she shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

School Attendance Review Board referrals

To deal with the problem of truancy, a county may (but is not required to) set up a School Attendance Review Board (SARB) according to §48320 and following. While the particular functions of SARB's are beyond the scope of this manual, it is worth noting that SARB referrals incur certain statutory reporting obligations upon the referring district:

> **§48273.** The governing board of each school district shall adopt rules and regulations to require the appropriate officers and employees of the district to gather and transmit to the county superintendent of schools the number and types of referrals to school attendance review boards and of requests for petitions to the juvenile court pursuant to Section 48263.

Admission to Kindergarten and First Grade

Kindergarten attendance not required

California's compulsory attendance law applies to children between the ages of 6 and 18:

> **§48210.** Children under 6 years of age are excluded from the public schools, except as provided in this code.

The Education Code accommodates admissions to kindergarten only with specific age requirements. It is important to note that kindergarten attendance is not required under the basic compulsory attendance law (§48200).

Standard entry in first month of school

The standard way for children to begin school in California is by entering kindergarten during the first month of classes in the school year. Such first-month entry requires that a child be old enough that his or her fifth birthday will occur not later than December 2nd of the same year.

Entry after first month of school

The law also gives local school boards discretionary authority to permit later entry by (a) children of the proper age, when presented for admission sometime *after* the first month, and (b) children who, though not old enough to have entered in the first month, have since actually turned five:

> **§48000.** (a) A child shall be admitted to a kindergarten during the first school month of a school year if the child will have his or her fifth birthday on or before December 2nd of that school year. For good cause the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.
>
> A child who will have his or her fifth birthday on or before December 2nd may be admitted to the prekindergarten summer program maintained by the school district for pupils who will be enrolling in kindergarten in September.
>
> (b) The governing board of any school district maintaining one or more kindergartens may admit to a kindergarten a child having attained the age of five years at any time during the school year with the approval of the parent or guardian. The governing board shall provide the parent or guardian with information as to the advantages and disadvantages

> and any other explanatory information as to the effects of this early admittance.

Other age requirements

A child who will turn five sometime after December 2nd must wait until his/her fifth birthday, when s/he becomes "of proper age"--and even then admission is up to the local governing board.

The Education Code contains requirements for proof of age:

> **§48002.** The parent or guardian of a child shall, prior to the admission of the child to the kindergarten or first grade of a school district, present proof to the authorities of the district evidencing that the child is of the minimum age fixed by law for admission thereto. The method of proof of age shall be prescribed by the governing board, and the evidence may be in the form of a certified copy of a birth record or a statement by the local registrar or a county recorder certifying the date of birth, or a baptism certificate duly attested, or a passport, or, when none of the foregoing is obtainable, an affidavit of the parent, guardian, or custodian of the minor, or any other appropriate means of proving the age of the child as prescribed by the governing board of the school district.

Retention in kindergarten and parental consent

It is possible for a pupil to attend more than two semesters of kindergarten--for example, a child born on December 5th might with special permission enter kindergarten in the spring semester, then attend kindergarten the entire following school year. After a year of kindergarten--on the anniversary of his/her entrance--however, that child has a right to promotion to the first grade. To retain that pupil in kindergarten and continue to claim apportionment credit, the district must enter a mutual written agreement with the pupil's parent or guardian:

> **§46300.**
>
> * * *
>
> (g) In computing the average daily attendance of a school district, there shall be included the attendance of pupils in kindergarten after they have completed one school year in kindergarten only if the school district has on file for each of those pupils an agreement made pursuant to Section 48011, approved in form and content by the State Department of Education and signed by the pupil's parent or guardian [see CDE advisory for pre-approved form], that the pupil shall be

Admission to Kindergarten and First Grade

(continued)

> retained in kindergarten for not more than an additional school year.
>
> **§48011.** A child who, consistent with Section 48000, has been admitted to the kindergarten maintained by a private or a public school in California or any other state, and who has completed one school year therein, shall be admitted to the first grade of an elementary school unless the parent or guardian of the child and the school district agree that the child may be retained in kindergarten for not more than an additional school year.
>
> A child who has been lawfully admitted to a public school kindergarten or a private school kindergarten in California and who is judged by the administration of the school district, in accordance with rules and regulations adopted by the State Board of Education, to be ready for first-grade work may be admitted to the first grade at the discretion of the school administration of the district and with the consent of the child's parent or guardian if the child is at least five years of age.
>
> When a child has been legally enrolled in the public schools of another district within or out of the state, he or she may be admitted to school and placed in the grade of enrollment in the district of former attendance, at the discretion of the school administration of the district entered.

Admission to first grade, promotion from kindergarten

A child qualifies for admission to first grade by completing a year of kindergarten after having been admitted in conformance with the age requirements of Section 48000, or simply by reason of age:

> **§48010.** A child shall be admitted to the first grade of an elementary school during the first month of a school year if the child will have his or her sixth birthday on or before December 2nd of that school year. For good cause, the governing board of a school district may permit a child of proper age to be admitted to a class after the first school month of the school term.

Section 48011 also provides that a pupil lawfully admitted to kindergarten and then found ready for first grade work may enter first grade at the discretion of the school district and with the consent of the parent or guardian. The CCR provides further details:

> **5 CCR 200.** A child who has been lawfully admitted to a public school kindergarten in California may be

Admission to Kindergarten and First Grade
(continued)

placed in the first grade at the discretion of the administration of a school district if it determines that the child is ready for first-grade work.

(a) The governing board shall adopt regulations setting forth the procedures to be followed.

(b) The procedures adopted shall ensure that a kindergarten pupil placed in the first grade meets the following minimum criteria:

(1) The child has attained at least five years of age.

(2) The child has attended a public school kindergarten for a long enough time to enable school personnel to make an evaluation of his ability.

(3) The child is in the upper 5% of his age group in terms of general mental ability.

(4) The physical development and emotional maturity of the child are consistent with his advanced mental ability.

(5) The parent or guardian of the child has filed with the district a written statement approving placement in the first grade.

For the compulsory attendance ramifications of other programs and situations, see the appropriate sections of Chapter IV.

Immunization Requirements for Admission

HSC §3380 and basic specifications

To ensure the health and safety of pupils, teachers, and staff, the state requires specified immunizations prior to attendance in the schools. The Health and Safety Code contains the basic laws regarding immunization and exclusion (§3380 and following); Title 17 of the California Code of Regulations (6000 and following) details the conditions of admission and exclusion.

> **HSC §3380.** In enacting this chapter, it is the intent of the Legislature to provide:
>
> (a) A means for the achievement of total immunization of appropriate age groups against diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles, mumps, and rubella.
>
> (b) That the persons required to be immunized be allowed to obtain immunizations from whatever medical source they so desire, subject only to the condition that the immunization be performed in accordance with the regulations of the State Department of Health Services and that a record of the immunization is made in accordance with such regulations.
>
> (c) Exemptions from immunization for medical reasons or because of personal belief.
>
> (d) For the keeping of adequate records of immunization so that health departments, schools, or other institutions, parents or guardians, and the persons immunized will be able to ascertain that a child is fully or only partially immunized, and so that appropriate public agencies will be able to ascertain the immunization needs of groups or children in schools or other institutions.

As elsewhere, the law makes important distinctions among the circumstances under which a child *shall* be admitted, the conditions under which the child *may* be admitted, and the circumstances under which an already admitted pupil *must be excluded* from further attendance. The decision depends on the pupil's immunization or exemption status, as verified in written records.

The following definitions are essential to a correct understanding of the laws governing admissions:

> **17 CCR 6000.** "Admission" means a pupil's first entry into a given public or private elementary or secondary school, child care center, day nursery, nursery school or development center. "Admission" also denotes a pupil's re-entry to one of these institutions after withdrawing from a previous enrollment.

Immunization Requirements For Admission
(continued)

(a) "Unconditional admission" is admission based upon documentation of receipt of all required immunizations or upon documentation of a permanent medical exemption or of a personal beliefs exemption to immunization in accordance with Section 6051.

(b) "Conditional admission" is admission based upon either documentation of having received some but not all required immunizations and of not being due for any vaccine at the time of entry or upon documentation of a temporary medical exemption to immunization in accordance with Section 6050. Continued attendance after conditional admission is contingent upon receipt of the remaining required immunizations in accordance with Sections 6020 and 6035.

Unconditional admission

The basic immunization requirement for admission to school is:

HSC §3381. As used in this chapter, the term "governing authority" means the governing board of each school district or the authority of each other private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution.

The governing authority shall not unconditionally admit any person as a pupil of a private or public elementary or secondary school, child care center, day nursery, nursery school, or development center, unless prior to his first admission to that institution he or she has been fully immunized against diphtheria, pertussis (whooping cough), tetanus, poliomyelitis, measles, mumps, and rubella in the manner and with the immunizing agents approved by the state department, except that all students who have reached the age of seven shall not be required to be immunized against pertussis or mumps.

Persons already enrolled in California public or private schools at the kindergarten level or above as of January 1, 1980, shall be exempt from the rubella and mumps immunization requirement for school attendance until they transfer to, enter, or attend a school at the seventh and ninth grade levels. Students entering the ninth grade on or after February 1, 1985, need not be screened for rubella. Students entering the seventh grade on or after February 1, 1987, need not be screened for rubella.

17 CCR 6025. Any pupil aged 18 months or older who has received all the immunizations against

Immunization Requirements For Admission

(continued)

poliomyelitis, diphtheria, tetanus, pertussis, measles (rubeola), rubella and mumps required for his or her age, as defined in Table 1, Section 6020, or who has documented a permanent medical exemption or a personal beliefs exemption to immunization in accordance with Section 6051, shall be admitted unconditionally as a pupil to a given public or private elementary or secondary school, child care center, day nursery, nursery school or development center. However, for some pupils admitted unconditionally to a child care center, day nursery, nursery school or development center, an additional dose of DTP and/or polio vaccine will be required for admission to school at kindergarten level or above, as indicated in Table 1, Section 6020.

Hence, there are three ways for a pupil to be admitted unconditionally:

- with documented proof of complete immunization;
- with a permanent medical exemption;
- with a currently valid personal beliefs exemption.

A pupil who has a properly documented full immunization record must be admitted unconditionally:

> **17 CCR 6065.** (a) There shall be a written record given to the person immunized or to his parent or guardian by the physician or agency performing the immunization which shall contain the following information:
>
> (1) Name of the person.
> (2) Birth date.
> (3) Type of vaccine administered.
> (4) Month, day, and year of each immunization.
> (5) Name of the physician or agency administering the vaccine.
>
> (b) The written record shall be shown by the parent, guardian, or person immunized to the governing authority of the school, child care center, day nursery, nursery school or development center at the time of the pupil's admission and at subsequent times when required by the governing authority to determine the pupil's immunization status. For the pupil to be admitted, the written record shall show at least the month and year of each required vaccine dose. For doses of measles, rubella and mumps vaccine given during the month of the first birthday the record shall

> also show the specific date (i.e., month, day and year) of immunization.
>
> (c) When such records are not available, the pupil shall not be admitted and the parent or guardian shall be referred to a physician or nurse for review of his or her immunization history and provision of immunizations as needed.
>
> (d) Pupils who were admitted to a California school at kindergarten level or above before March 5, 1986 on the basis of a parent or guardian's having completed and signed a California School Immunization Record (PM 286) that shows at least the month and year each required vaccine dose was received (and also shows the day of immunization if a measles, rubella and/or mumps vaccine dose was received during the month of the first birthday), rather than on the basis of a parent or guardian's having provided a written record as described in Parts (a) and (b) of this Section, shall be allowed to continue in attendance in California schools.

Subdivision (c) of §6065 disallows admission without proper documentation--"When such records are not available, the pupil shall not be admitted"--except under conditions left to local officials' discretion (see "Conditional Admissions," following).

Circumstances arise in which a child does not need a particular immunization, for example when s/he has already had the disease; proper documentation, however, is always required:

> **HSC §3386.** If the parent or guardian files with the governing authority a written statement by a licensed physician to the effect that the physical condition of the child is such or medical circumstances relating to the child are such, that immunization is not considered safe, indicating the specific nature and probable duration of the medical condition or circumstances which contraindicate immunization, such person shall be exempt from the requirements of this chapter to the extent indicated by the physician's statement.
>
> **17 CCR 6051.** A pupil with a permanent medical exemption or a personal beliefs exemption to immunization shall be admitted unconditionally. A permanent medical exemption shall be granted upon the filing with the governing authority of a written statement from a licensed physician to the effect that the physical condition of the pupil or medical

Immunization Requirements For Admission
(continued)

> circumstances relating to the pupil are such that immunization is permanently not indicated. The fact of the permanent medical exemption shall be recorded on the California School Immunization Record, PM 286. A permanent medical exemption may be provided for one or more vaccines. A physician may provide a written statement that the pupil is medically exempt from the measles (rubeola) requirement as a result of having had measles (rubeola) disease. A physician may provide a written statement that the pupil is medically exempt from the rubella and/or mumps requirement as a result of having had laboratory confirmed illness with the corresponding disease.
>
> A personal beliefs exemption shall be granted upon the filing with the governing authority of a letter or affidavit from the pupil's parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, that such immunization is contrary to his or her beliefs. A pupil with an exemption which is not based on pre-existing immunity to disease may be subject to exclusion pursuant to Section 6060.

The law also allows unconditional admission when immunization is contrary to a family's beliefs, with documentation again required pursuant to 17 CCR 6051, as well as:

> **HSC §3385.** Immunization of a person shall not be required for admission to a school or other institution listed in Section 3381 if the parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, files with the governing authority a letter or affidavit stating that such immunization is contrary to his or her beliefs. However, whenever there is good cause to believe that such person has been exposed to one of the communicable diseases listed in subdivision (a) of Section 3380, that person may be temporarily excluded from the school or institution until the local health officer is satisfied that the person is no longer at risk of developing the disease.

It is important to note that both these sections specifically allow for the subsequent exclusion of a "pupil with an exemption which is not based on pre-existing immunity to

Immunization Requirements For Admission
(continued)

disease" (see "Immunization," following). Such precautionary exclusions may not be credited as apportionment-excused absences.

Conditional admission

A district is not required to admit a child who has not been fully immunized; it *may* admit such a child, but only with certain conditions:

> **HSC §3382.** A person who has not been fully immunized against one or more of the diseases listed in Section 3381 may be admitted by the governing authority on condition that within time periods designated by regulation of the state department he or she presents evidence that he or she has been fully immunized against all of these diseases.
>
> **17 CCR 6000.**
>
> * * *
>
> (b) "Conditional admission" is admission based upon either documentation of having received some but not all required immunizations and of not being due for any vaccine at the time of entry or upon documentation of a temporary medical exemption to immunization in accordance with Section 6050. Continued attendance after conditional admission is contingent upon receipt of the remaining required immunizations in accordance with Sections 6020 and 6035.
>
> **17 CCR 6035.** (a) Any pupil seeking admission to a given public or private elementary or secondary school, child care center, day nursery, nursery school or development center who lacks documentation of having received all the required vaccine doses against poliomyelitis, diphtheria, tetanus, pertussis, measles (rubeola), rubella and mumps as specified in Table 1, Section 6020, and has not obtained a permanent medical exemption or a personal beliefs exemption to immunization in accordance with Section 6051, may be admitted conditionally if:
>
> (1) he or she has not received all the immunizations required for his or her age group but has commenced receiving doses of all the vaccines in accordance with Table 2, is not currently due for any doses at the time of admission (if he or she is due for any doses at this time they must be obtained before admission), and the pupil's parent or guardian is notified of the date by which the pupil must complete all the required immunizations in accordance with Table 2; or

Immunization Requirements For Admission
(continued)

(2) he or she is under age 18 months and has received all the immunizations required for his or her age group but will require additional vaccine doses at an older age, and the pupil's parent or guardian is notified of the date by which the pupil must complete all the remaining doses when they become due in accordance with Table 1, Section 6020; or

(3) he or she has obtained a temporary medical exemption from immunization in accordance with Section 6050, and the pupil's parent or guardian is notified of the date by which the pupil must complete all the required immunizations when the temporary exemption terminates; or

(4) he or she is a pupil entering a child care center governed by Education Code Section 8263(c), where a different deadline for obtaining all required immunizations may apply.

(b) The public or private elementary or secondary school, child care center, day nursery, nursery school or development center shall not allow the admission of any pupil seeking entry who does not meet the requirements for admission under Section 6025 or 6035. The principal or administrator shall advise the pupil, or the parent or guardian, to contact a physician or agency that provides immunizations.

Conditional admission is allowable if the child:

- is partially immunized and on schedule to date toward completion;
- has a temporary medical exemption from one or more immunizations, in accordance with 17 CCR 6050;
- is completely immunized but whose records have been delayed in transmission (17 CCR 6070).

It is in the district's and child's best interests to bring his/her immunization status into compliance as soon as possible. The law sets time limits for conditional admission, while providing rules for notifying the parents/guardians of children who face exclusion. When they conditionally admit pupils, school authorities incur responsibility for regular review of records:

17 CCR 6070.

* * *

(e) The governing authority shall see that the immunization record of each pupil admitted conditionally is reviewed every 30 days until that pupil has received all the required immunizations. Any immunizations received subsequent to conditional admission shall be entered in the pupil's immunization record.

If a partially immunized child is currently due for a vaccine dose, s/he may not be admitted. As 17 CCR 6000(b) makes clear, "Continued attendance after conditional admission is contingent upon receipt of the remaining required immunizations..."; furthermore, time constraints attach to such admission:

> **17 CCR 6040.** An already admitted pupil who is subsequently discovered not to have received all the immunizations which were required before admission or who is subsequently discovered not to have complied with the requirements for conditional admission specified in Section 6035 shall continue in attendance only if he or she receives all vaccine doses for which he or she is currently due and provides documentation of having received such doses no later than 10 school days after he or she or the parent or guardian is notified. The school, child care center, day nursery, nursery school or development center shall notify the pupil or the parent or guardian of the time period (no longer than 10 school days) within which the doses must be received.

Section 6040 applies not only to conditionally admitted pupils, but also to any pupils discovered to be in attendance without complete immunization records. Governing authorities must notify the parent/guardian and give the parent/guardian not more than 10 schooldays to provide verification that the child has received the required doses.

Under certain circumstances, it may be medically inadvisable to administer certain immunizations to a child. The resultant exemption may be permanent (pursuant to HSC §3386 and 17 CCR 6051, as described earlier) or temporary (pursuant to HSC §3386 and 17 CCR 6050), but in both cases the statement of a licensed physician is a prerequisite for any admission. Such a statement must always describe "the specific nature and probable duration of the medical condition or circumstances which contraindicate immunization..." (HSC §3386).

Temporary medical exemptions are authorized in:

Immunization Requirements For Admission

(continued)

> **17 CCR 6050.** A pupil who is temporarily exempt from immunization for medical reasons shall be admitted on condition that required immunizations are obtained at the termination of the exemption; the fact of the temporary medical exemption shall be recorded on the California School Immunization Record (PM 286). A pupil with a temporary medical exemption may be subject to exclusion pursuant to Section 6060.

The conditions accompanying such admission must be communicated to the parent/guardian responsible; 17 CCR 6035(a)(3) describes this notification: "the pupil's parent or guardian [must be] notified of the date by which the pupil must complete all the required immunizations when the temporary exemption terminates...." As in other cases, "A pupil with an exemption which is not based on pre-existing immunity to disease may be subject to exclusion pursuant to Section 6060" (17 CCR 6051).

In some circumstances, such as when paperwork on a transferring student is expected but has not arrived, a district *may* at its discretion admit a pupil who does not hold all required records at the time of admission:

> **17 CCR 6070.**
>
> * * *
>
> (d) For pupils at kindergarten level and above transferring between school campuses within California or from a school in another state to a school in California, if the mandatory permanent pupil record or other immunization record has not been received at the time of entry to the new school, the governing authority of the school may admit the pupil for a period of up to 30 school days. If the mandatory permanent record or other immunization record has not arrived by the end of this period, the governing authority shall require the parent or guardian to present a written immunization record, as described in Section 6065, documenting that all currently due required immunizations have been received. If such a record is not presented, the pupil shall be excluded from further attendance until he or she comes into compliance with the immunization requirements, as outlined in Sections 6020, 6035, 6065.

Immunization and exclusions

In the context of immunizations, "exclusion" occurs when a child is refused admission to school, or when an already admitted pupil is prohibited from further attendance. Two conditions constitute grounds for

Immunization Requirements For Admission

(continued)

exclusion: the child has not fully complied with immunization regulations within the time period specified by law, or the pupil's further attendance would constitute a risk to the health of other pupils, teachers, or staff. Although in many cases a governing authority must provide notice before excluding a pupil, there are situations in which governing authorities or health officials can use their discretion to act immediately in protecting the general health.

A clear and complete paper trail must verify the immunization status of each pupil and prospective pupil:

> **17 CCR 6070.** (a) The governing authority of each school, child care center, day nursery, nursery school or development center shall record each pupil's immunization on the California School Immunization Record, PM 286, which, at kindergarten level and above, shall be part of the mandatory pupil record as defined in Section 430 of Title 5, California Code of Regulations.
>
> (b) Each pupil's immunization record shall contain:
>
> (1) Name of pupil.
>
> (2) Birth date (month, day, and year).
>
> (3) Date of unconditional or conditional admission
>
> (4) Type of vaccine and date (month, day, and year) each dose was administered.
>
> (5) Date and type of exemption, if any.
>
> (c) The immunization record shall be transferred with the mandatory permanent pupil record.
>
> (d) For pupils at kindergarten level and above transferring between school campuses within California or from a school in another state to a school in California, if the mandatory permanent pupil record or other immunization record has not been received at the time of entry to the new school, the governing authority of the school may admit the pupil for a period of up to 30 school days. If the mandatory permanent record or other immunization record has not arrived by the end of this period, the governing authority shall require the parent or guardian to present a written immunization record, as described in Section 6065, documenting that all currently due required immunizations have been received. If such a record is not presented, the pupil shall be excluded from further attendance until he or she comes into compliance with the immunization requirements, as outlined in Sections 6020, 6035, 6065.
>
> (e) The governing authority shall see that the immunization record of each pupil admitted

Immunization Requirements For Admission

(continued)

> conditionally is reviewed every 30 days until that pupil has received all the required immunizations. Any immunizations received subsequent to conditional admission shall be entered in the pupil's immunization record.

The specific connections between immunization records and exclusions are found in:

> **HSC §3389.** (a) The governing authority of each school or institution included in Section 3381 shall require documentary proof of each entrant's immunization status. The governing authority shall record the immunizations of each new entrant in the entrant's permanent enrollment and scholarship record on a form provided by the state department. The immunization record of each new entrant admitted conditionally shall be reviewed periodically by the governing authority to ensure that within the time periods designated by regulation of the state department he or she has been fully immunized against all of the diseases listed in Section 3381, and such immunizations received subsequent to entry shall be added to the pupil's immunization records.
>
> (b) The governing authority of each school or institution included in Section 3381 shall prohibit from further attendance any pupil admitted conditionally who failed to obtain the required immunizations within the time limits allowed under the regulations of the state department, unless the pupil is exempted under Section 3385 or 3386, until that pupil has been fully immunized against all of the diseases listed in Section 3381.
>
> (c) The governing authority shall file a written report on the immunization status of new entrants to the school or institution under their jurisdiction with the state department and the local health department at times and on forms prescribed by the state department. As provided in paragraph (4) of subdivision (a) of Section 49076 of the Education Code, the local health department shall have access to the complete health information as it relates to immunization of each student in the schools or other institutions listed in Section 3381 in order to determine immunization deficiencies.
>
> (d) The governing authority shall cooperate with the county health officer in carrying out programs for the immunization of persons applying for admission to any

> school or institution under its jurisdiction. The governing board of any school district may use funds, property, and personnel of the district for that purpose. The governing authority of the school or other institution may permit any licensed physician or any qualified registered nurse as provided in Section 2727.3 of the Business and Professions Code to administer immunizing agents to any person seeking admission to any school or institution under its jurisdiction.

The conditions of admission specify the time period within which further immunizations are required, or following which temporary medical exemptions expire. A pupil not meeting these conditions within the specified time is subject to exclusion:

> **17 CCR 6055.** The governing authority of the school, child care center, day nursery, nursery school or development center shall exclude from further attendance any pupil who fails to obtain the required immunizations within no more than 10 days following receipt of the notice provided pursuant to Section 6040, unless the pupil is exempt for medical reasons or personal beliefs, until the pupil provides written evidence that he or she has received another dose of each required vaccine due at that time. Any pupil so excluded shall be reported to the attendance supervisor or to the building administrator.

As the wording ("shall prohibit from further attendance," "shall exclude from further attendance") makes clear, there are no grounds on which an incompletely immunized pupil may continue to attend more than 10 days after receiving notice.

The last sentence of 17 CCR 6051 allows the exclusion of pupils even when they have been "unconditionally" admitted: "A pupil with an exemption which is not based on pre-existing immunity to disease may be subject to exclusion pursuant to Section 6060."

The operative priority is always the health and safety of the general school population:

> **17 CCR 6060.** Whenever the governing authority has good cause to believe that a pupil who is not completely immunized against a particular communicable disease may have been exposed to that disease, that information shall be reported by the governing

Immunization Requirements For Admission
(continued)

> authority immediately by telephone to the local health officer. The local health officer shall determine whether the pupil is at risk of developing the disease and, if so, may require the exclusion of the pupil from that school, child care center, day nursery, nursery school or development center until the completion of the incubation period and the period of communicability of the disease.

A parent or guardian who for religious or other reasons refuses to consent to the physical examination of a child must verify such refusal on an annual basis:

> **§49451.** A parent or guardian having control or charge of any child enrolled in the public schools may file annually with the principal of the school in which he is enrolled a statement in writing, signed by the parent or guardian, stating that he will not consent to a physical examination of his child. Thereupon the child shall be exempt from physical examination, but whenever there is good reason to believe that the child is suffering from a recognized contagious or infectious disease, he shall be sent home and shall not be permitted to return until the school authorities are satisfied that any contagious or infectious disease does not exist.

The last paragraph of §48213 (following) also specifically provides for immediate exclusion without prior notice, as may be necessary for a child whose parent withholds consent to physical examination.

Three other Education Code sections set out the grounds for exclusion and the process of notification:

> **§48211.** The governing body of a school district may exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases.

> **§48212.** The governing board of the school may exclude from attendance on regular school classes any child whose physical or mental disability is such as to cause his attendance to be inimical to the welfare of other pupils.

> **§48213.** Prior to excluding a child from attendance pursuant to Section 48211 or 48212, the governing board shall send a notice to the parent or guardian of

Immunization Requirements For Admission

(continued)

the child. The notice shall contain each of the following:

(1) A statement of the facts leading to a decision to propose exclusion of the child.

(2) A statement that the parent or guardian of the child has a right to meet with the governing board to discuss the proposed exclusion.

(3) A statement that at any meeting with the governing board held to discuss such proposed exclusion, the parent or guardian shall have an opportunity to inspect all documents which the governing board relied on in its decision to propose exclusion of the child; to challenge any evidence and to confront and question any witness presented by the governing board; and to present oral and documentary evidence on the child's behalf, including witnesses. The statement shall also include notice that the parent or guardian may designate one or more representatives to be present with the parent or guardian at the meeting.

(4) A statement that the decision to exclude the child is subject to periodic review and a statement of the procedures set by the governing board for such periodic review.

If a child is excluded from attendance pursuant to Section 3118 of the Health and Safety Code or Section 49451 of this code or when a principal or his or her designee determines that the continued presence of the child would constitute a clear and present danger to the life, safety, or health of pupils or school personnel, the governing board shall not be required to send prior notice of the exclusion to the parent or guardian as required in this section. The governing board shall send a notice as required by this section as soon as is reasonably possible after the exclusion.

Specifically addressing the rights of *pupils*, the CCR provides that:

5 CCR 202. A pupil while infected with any contagious or infectious disease may not remain in any public school.

Under certain conditions, a district may be able to claim up to five days' apportionment attendance credit for a pupil excluded on the basis of inadequate immunization:

§46010.5. The governing board of the district of attendance shall exclude any pupil of the district who has not been immunized properly pursuant to Chapter

Immunization Requirements For Admission
(continued)

7 (commencing with Section 3380) of Division 4 of the Health and Safety Code, for up to five days in order to obtain such immunization, and such exclusion shall not be deemed an absence in computing average daily attendance if the following conditions are complied with:

(a) The governing board of the district notifies the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized, or that the pupil is exempted from the immunization requirement pursuant to Section 3385 or Section 3386 of the Health and Safety Code.

(b) The governing board of the district, in such notice, refers the parent or guardian of the pupil to the pupil's usual source of medical care to obtain such immunization, or if no usual source exists, either refers the parent or guardian to the county health department, or notifies the parent that the immunizations will be administered at a school of the district.

If a pupil requires several doses over more than five schooldays before being eligible for legal admission, the rest of the exclusion absence is not apportionable.

It is also important to note that a pupil excluded on a precautionary basis (for example, as provided in HSC §3385 or 17 CCR 6060) does *not* qualify for the five days' apportionment credit outlined in §46010.5. Similarly, an erroneously admitted pupil who then contracts one of the diseases listed in HSC §3380 is also not eligible for excused absence credit.

Finally, it should be noted that a parent's/guardian's obligation to send a child to public school necessarily includes the obligation to document proper immunization status or to file a personal beliefs exemption.

"A.d.a.": Basic Definitions and Calculation

Introduction: "reporting periods" and "a.d.a."

Section 41601 defines several key terms for attendance calculation and reporting (including the division of the fiscal year into "apportionment periods") and lays out the basis for awarding apportionments according to "average daily attendance":

> **§41601.** For the purposes of this chapter, the governing board of each school district shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment. The county superintendent of schools shall report the average daily attendance for the schools and classes maintained by him or her and the average daily attendance for the county school tuition fund.
>
> Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Superintendent of Public Instruction. Average daily attendance shall be computed in the following manner:
>
> (a) The average daily attendance in the regular elementary, junior high, and high schools, including continuation schools and classes and opportunity schools and classes, maintained by the school districts shall be determined by dividing the total number of days of attendance allowed in all full school months in each period, by the number of days the schools are actually taught in all full school months in each period, exclusive of Saturdays or Sundays and exclusive of weekend makeup classes pursuant to Section 37228.
>
> (b) The attendance for schools and classes maintained by the county superintendent of schools and the county school tuition fund shall be reported in the same manner as reported by school districts. The average daily attendance of the school shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175. For attendance in special classes and centers pursuant to Section 52364, the average daily attendance shall be

> reported by the county superintendents, but credited for revenue limit purposes to the district in which the pupil resides.
>
> (c) The days of attendance in classes for adults and regional occupational centers [sic] programs shall be reported in the same manner as all other attendance under subdivision (a). The average daily attendance in those schools and classes shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 85[,] in the second period by 135[,] and at annual time by 175.
>
> (d) For purposes of determining the incentive funding pursuant to Sections 46200.5 and 46201.5, the days of attendance in special education classes operated by county offices of education shall be determined in the same manner as all other attendance under subdivision (a).
>
> **§37200.** The school year begins on the first day of July and ends on the last day of June.
>
> **§37201.** (a) A school month is 20 days or four weeks of five days each, including legal holidays but excluding weekend makeup classes. For the purposes of counting attendance only in providing for a school calendar the winter vacation period, or any portion thereof, may be excluded by the school district in the definition of a school month.
>
> (b) The provisions of subdivision (a) of this section are limited to defining a school month for attendance-counting purposes only.

The "first period" is more commonly known as "P-1," the second period as "P-2." By taking advantage of the flexibility in §37201(a) to delete all or any part of its winter vacation from its school calendar, a school district can have a choice of P-2 dates, within a limited range.

The basic method for computing a.d.a. over any amount of time (month, period, year) is to divide the number of total student-days of attendance by the number of days school was in session (see "Default method for calculating a.d.a.," following). For certain programs, however, statute provides "fixed" divisors: §41601(c) sets the P-1 divisor for adult classes and ROC/P's as 85, for example, while schools maintained by county superintendents have a P-1 divisor of 70 (see appropriate sections of Chapter IV).

"A.d.a.": Basic Definitions and Calculations
(continued)

A.d.a. computation and the importance of §46300

At the heart of California's attendance accounting for apportionments is the concept of educational activities under the immediate supervision and control of certificated county or district employees:

> **§46300.** (a) In computing average daily attendance of a school district or county office of education, there shall be included the attendance of pupils while engaged in educational activities required of those pupils and under the immediate supervision and control of an employee of the district who possessed a valid certification document, registered as required by law.
>
> (b) For the purposes of a work experience education program in a secondary school that meets the standards of the California State Plan for Vocational Education, the term "immediate supervision," in the context of off-campus work training stations, means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in a work experience program shall not exceed 125 pupils per full-time equivalent certificated teacher coordinator. Notwithstanding Section 52033, this ratio may be waived by the State Board of Education pursuant to Article 3 (commencing with Section 33050) of Chapter I of Part 20 under criteria developed by the State Board of Education.
>
> A pupil enrolled in a work experience program shall not be credited with more than one day of attendance per calendar day, and shall be a full-time student enrolled in regular classes that meet the requirements of Section 46141 or 46144.
>
> (c) For the purposes of the rehabilitative schools, classes, or programs described in Section 48917 that require immediate supervision, the term "immediate supervision" means that the person to whom the pupil is required to report for training, counseling, tutoring, or other prescribed activity shares the responsibility for the supervision of the pupils in the rehabilitative activities with certificated personnel of the district.
>
> A pupil enrolled in a rehabilitative school, class, or program shall not be credited with more than one day of attendance per calendar day.
>
> (d) For the purposes of computing the average daily attendance of pupils engaged in the educational activities required of high school pupils who are also

"A.d.a.": Basic Definitions and Calculations
(continued)

enrolled in a regional occupational center or regional occupational program, the school district shall receive proportional average daily attendance credit for those educational activities that are less than the minimum schoolday, pursuant to regulations adopted by the State Board of Education, however, none of that attendance shall be counted for purposes of computing attendance pursuant to Section 52324.

A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for any pupil in attendance for less than 145 minutes each day.

The divisor for computing proportional average daily attendance pursuant to this subdivision is 240; except, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor is 180.

Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or program shall not be used in any manner in the computation of average daily attendance.

(e) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in an independent study program conducted pursuant to Article 5.5 (commencing with Section 51745 of Chapter 5 of Part 28.

A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day.

(f) For purposes of cooperative vocational education programs and community classrooms described in Section 52372.1, the term "immediate supervision" means pupil participation in paid and unpaid on-the-job experiences, as outlined under a training agreement and individualized training plans wherein the supervisor of the training site and certificated school personnel share the responsibility for the supervision of on-the-job experiences.

(g) In computing the average daily attendance of a school district, there shall be included the attendance of pupils in kindergarten after they have completed one school year in kindergarten only if the school district has on file for each of those pupils an agreement made pursuant to Section 48011, approved in form and content by the State Department of Education and signed by the pupil's parent or guardian, that the pupil shall be retained in kindergarten for not more than an additional school year.

"A.d.a.": Basic Definitions and Calculations

(continued)

Note that in most educational settings, a pupil may not be credited with more than one day of attendance in any calendar day:

> **§46110.** No pupil in a kindergarten or in any grade of an elementary school shall be credited with more than one day of attendance in any calendar day and nothing in this article shall be construed to the contrary.

> **§46140.** No pupil in a high school, other than a pupil enrolled in a regional occupational center or program, evening high school, continuation high school, or continuation education class, shall be credited with more than one day of attendance in any one calendar day and nothing in this article shall be construed to the contrary.

Default method for calculating a.d.a.

When exact computational methods are not explicitly provided elsewhere in the Education Code, a.d.a. is calculated according to:

> **§46301.** Whenever it is necessary to compute the average daily attendance of a school of a district for any certain purpose and no provision is made for the computation thereof for such purpose, the average daily attendance of the school shall be computed by dividing the total number of days of pupil attendance allowed by the number of days school was actually taught in the regular day schools of the district, exclusive of Saturdays or Sundays.

Certain calculational modifications may be employed when emergency conditions force the closure of schools (see "Emergencies and Apportionment Credit," following).

Fractional units may result from a.d.a. calculations, in which case:

> **§46303.** (a) If any computation of average daily attendance made under, or necessitated by, any provision of law, results in a fraction of less than one-half of a unit, the average daily attendance shall be taken as the next lowest whole number, except that if such computation results in an average daily attendance of less than one unit, the average daily attendance shall be deemed to be one unit; but if the fraction is one-half or more of a unit, the average daily

attendance shall be taken as the next highest whole number.

(b) Whenever any reference is made to a specific whole number of units of average daily attendance said number shall include any fraction above said number which is less than one-half of a unit, and any fraction of one-half or more of a unit above the next lowest whole number.

Definition of "attendance" for apportionments

Note that what constitutes attendance for apportionments may differ from attendance for compliance with compulsory attendance law.

The CCR defines what constitutes "attendance" in the context of apportionments:

> **5 CCR 402.** For apportionment purposes, attendance of a pupil upon schools or classes maintained by a school district or a county superintendent may be counted when the pupil is present during the time lawfully prescribed for the school or class in which he is enrolled and when such attendance meets the requirements prescribed by Education Code Section 46300....
>
> **5 CCR 403.** Subject to the provisions of Sections 402, 404, and 405, for apportionment purposes a pupil enrolled in a regular day class or a special day class for the minimum school day applicable to him (except pupils whose attendance is recorded by clock hour) is deemed present for the entire school day, unless he is absent for the entire school day, prescribed by the local governing board under Education Code Section 46100.
>
> **5 CCR 404.** Subject to the provisions of Sections 402 and 405, a pupil enrolled in a class described in Section 406 is deemed present, and he shall not be counted or recorded as absent for apportionment purposes, unless he is absent for the entire clock hour.
>
> **5 CCR 405.** For apportionment purposes, in a situation described in (a), (b), or (c) of this section, only a pupil's actual attendance upon regular day school or class shall be counted. Such attendance shall be recorded in clock hours.
>
> (a) Admission charge. For some period of time during his regularly programmed school day he attends or engages in a school sponsored function or activity for which he pays a fee, an admission, or participation

"A.d.a.": Basic Definitions and Calculations
(continued)

charge, except for fees authorized by adult education (§§ 52612 and 52613).

(b) Work Experience Class. He is enrolled in a work experience class [sic]. In this case his attendance is the sum of the hours of his actual attendance upon the regular school or class, plus the hours of attendance in the work experience class which meet the requirements of Section 46300 of the Education Code.

(c) Excused from Regular Schools or Class. Whenever a pupil is excused from a school or class to attend or participate in a function or activity which does not meet the requirements of Section 46300 of the Education Code.

Of course, classes subject to hourly attendance accounting are *not* required to be held only in *exact* 60-minute "clock hour" sessions. When a class is scheduled and held for more or less than an exact hour or multiple of an hour in each session, the resulting individual portions of hours of attendance credit (most easily accounted in minutes) are simply aggregated into whole hours of apportionment credit. Consistent with 5 CCR 404, if a student attends any part of, say, a 45-minute class session, s/he then may be credited with 45 minutes of attendance.

For a.d.a. calculations in specific programs, see Chapter IV.

Absences

Introduction

State law allows certain types of absences to be treated as if the pupil had actually attended the missed day. The law also allows other types of absences to be excused but not to be the basis for apportionment claims. The common term "excused absence," then, may mean two different things--and while neither of them is a truancy, only in the instance of a properly verified "apportionment-excused absence" can a district claim apportionment credit for the absent pupil.

It is important to note that the law does not allow apportionment-excused absence for pupils in summer school, classes for adults, opportunity program assignments (as opposed to full-time opportunity class assignments), or regional occupational centers or programs (except for pupils concurrently enrolled in both a regular program and a regional occupational center or program).

Absences *allowable* as apportionment attendance

§46010. (a) The total days of attendance of a pupil upon the schools and classes maintained by a school district, or schools or classes maintained by the county superintendent of schools during the fiscal year shall be the number of days school was actually taught for not less than the minimum schoolday during the fiscal year less the sum of his absences.

(b) The absence of a pupil from school or class shall not be deemed an absence in computing the attendance of a pupil if such absence was:

(1) Due to his illness, or

(2) Due to quarantine under the direction of a county or city health officer, or

(3) For the purpose of having medical, dental, optometrical, or chiropractic services rendered, or

(4) For the purpose of attending the funeral services of a member of his immediate family, so long as such absence is not more than one day if the service is conducted in California and not more than three days if the service is conducted outside of California, or

(5) For the purpose of jury duty in the manner provided for by law.

(6) Due to exclusion from school pursuant to Section 3381 of the Health and Safety Code, so long as such absence is not more than five schooldays pursuant to Section 46010.5.

"Immediate family," as used in this subdivision, has the same meaning as that set forth in the last sentence of Section 45194, except that references therein to "employee" shall be deemed to be references to "pupil."

Absences
(continued)

> The provisions of this subdivision shall not apply in the case of pupils attending summer school, adult schools, and classes, or regional occupational centers and programs other than pupils concurrently enrolled in a regular high school program and a regional occupational center or program.

The Education Code does not define "illness," but CDE suggests as a reasonable definition: 'a temporary or intermittent affliction that makes it unwise or impossible for a pupil to attend school.' A pupil whose condition prevents his/her benefitting from instruction should of course not attend school, but the determining factor may also be the contagiousness of a pupil who otherwise "feels fine." (Formal public health quarantines have been all but unknown since antibiotics came into widespread use following World War II.)

The Education Code specifically provides for excusing pupils in grades 7-12 when they leave school to obtain confidential medical services:

> **§46010.1.** Commencing in the fall of the 1986-87 academic year, the governing board of each school district shall, each academic year, notify pupils in grades 7 to 12, inclusive, and the parents or guardians of all pupils enrolled in the district, that school authorities may excuse any pupil from the school for the purpose of obtaining confidential medical services without the consent of the pupil's parent or guardian.
>
> The notice required pursuant to this section may be included with any other notice given pursuant to this code.

For cases of prolonged illness or injury preventing attendance for an extended time, there are further provisions:

> **5 CCR 423.** A pupil who contracts an illness of a prolonged nature or who has been a victim of an accident which will prevent attendance for a prolonged period shall be counted as absent due to illness only until such time as he is able and starts to receive instruction in home, hospital, or sanatorium, or is given instruction by other means. No absence due to illness shall be credited as attendance beyond the current school year.

Absences
(continued)

Excused absence credit is no longer applicable once an ill pupil begins receiving instruction in a hospital or in his/her home (see "Home/Hospital Instruction" in Chapter IV).

"Immediate Family," as set out in §45194 and applicable to excused absences for attending funerals, consists of the pupil's mother, father, grandmother, grandfather, grandchild, spouse, son, son-in-law, daughter, daughter-in-law, brother, sister, or other relative living in the pupil's immediate household.

A pupil excluded from school for lack of required immunizations may be claimed for apportionment attendance credit for up to five days, only, even if his exclusion lasts longer:

> **§46010.5.** The governing board of the district of attendance shall exclude any pupil of the district who has not been immunized properly pursuant to Chapter 7 (commencing with Section 3380) of Division 4 of the Health and Safety Code, for up to five days in order to obtain such immunization, and such exclusion shall not be deemed an absence in computing average daily attendance if the following conditions are complied with:
>
> (a) The governing board of the district notifies the parent or guardian of the pupil that they have two weeks to supply evidence either that the pupil has been properly immunized, or that the pupil is exempted from the immunization requirement pursuant to Section 3385 or Section 3386 of the Health and Safety Code.
>
> (b) The governing board of the district, in such notice, refers the parent or guardian of the pupil to the pupil's usual source of medical care to obtain such immunization, or if no usual source exists, either refers the parent or guardian to the county health department, or notifies the parent that the immunization will be administered at a school of the district.

Under certain circumstances, pupils absent from regular school while engaged in school-sponsored field trips may also be claimed for apportionment attendance credit:

> **§35330.**
>
> * * *
>
> The attendance or participation of a pupil in a field trip or excursion authorized by this section shall be considered attendance for the purpose of crediting

Absences
(continued)

> attendance for apportionments from the State School Fund in the fiscal year. Credited attendance resulting from such field trip or excursion shall be limited to the amount of attendance which would have accrued had the students not been engaged in the field trip or excursion.
>
> Credited attendance shall not exceed 10 schooldays except in the case of pupils participating in a field trip or excursion in connection with courses of instruction, or school-related educational activities, and which are *not* social, cultural, athletic, or school band activities.... [emphasis added]
>
> * * *
>
> No pupils shall be prevented from making the field trip or excursion because of lack of sufficient funds. To this end, the governing board shall coordinate efforts of community service groups to supply funds for pupils in need of them.
>
> No group shall be authorized to take a field trip or excursion authorized by this section if any pupil who is a member of such an identifiable group will be excluded from participation in the field trip or excursion because of lack of sufficient funds.

Note that if any member of a group of pupils is prevented from participating in a field trip for the group because of lack of sufficient funds, the remaining pupils do not generate apportionment credit for the days of the field trip.

Verification of apportionment-excused absences

The CCR specifies who may verify absences because of illness or quarantine, and the ways they may do so:

> **5 CCR 421.** (a) Any of the following persons may verify an absence due to illness or quarantine:
>
> (1) A school or public health nurse.
> (2) An attendance supervisor.
> (3) A physician.
> (4) A principal.
> (5) A teacher.
> (6) Any other qualified employee of a district or of a county superintendent of schools assigned to make such verification.
>
> (b) The verification shall be made in accordance with any reasonable method which establishes the fact that the pupil was actually ill or under quarantine if the method has been approved:
>
> (1) In the case of a school district, by resolution of the governing board entered in its minutes.

Absences
(continued)

(2) In the case of a school or class maintained by a county superintendent of schools, by resolution of the county board of education entered in its minutes.

Note that parent volunteers and student assistants are *not* among those who may verify.

In practice, school officials usually rely on one or the other of two main means of verifying illness absences: notes from parents/guardians, or telephone conversations they have logged after discussing the reasons for pupils' absences with (usually) the pupils' parents/guardians. In certain circumstances, subject to local policies, it may be necessary to verify on the basis of information gained through conversations with siblings or others judged to be reliable. In such instances CDE advises placing a specific explanatory notation in the attendance records audit trail.

While school officials may reasonably base verification on notes and telephone conversations which they have no reason to disbelieve, they may not of course accept an excuse if they have personal knowledge that provides a basis for a reasonable certainty that the excuse is false--and when in significant doubt, they should seek further confirmation.

By usual audit standards, adequate phone log entries and notes from home have common essential elements. The elements of a phone log entry are:

- the absent pupil's name
- the name of the person reached, and his/her relationship to the pupil
- the name of the verifying school employee
- the date of the call
- the date of the absence to which the call refers
- the reason for the absence.

The elements of an absence note are:

- the absent pupil's name
- the name* and signature of the person who wrote the note (and relationship to the pupil if other than parent/guardian*)
- the date of the note*
- the date of the absence to which the note refers*
- the reason for the absence.

(* may be supplied by the accepting school official.)

Absences
(continued)

Pupils 18 and older may legally provide the basis for verification of their own absences (as may "emancipated minors"--see Civil Code §60 and following).

> **§46012.** For purposes of any procedure for verification of absences from school, a student 18 years of age or over, with respect to his own absences from school, shall have all of the responsibilities and powers which, in the case of a minor, would be charged to the parent, guardian, or other person having charge or control of the minor.

Notes and phone logs are Class 3 "Records Basic to Audit" (see Chapter V) to be retained for three years:

> **5 CCR 16026.** Class 3 disposable records shall not be destroyed until after the third July 1 succeeding the completion of the audit required by Education Code Section 41020 or of any other legally required audit, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later. A continuing record shall not be destroyed until the third year after it has been classified as Class 3--Disposable.

A note that is the basis for verification of an absence is a "source document," as auditors use the term, and *must* itself be retained in the record. A logged summary of its contents is *not* an acceptable substitute.

Recording of apportionment-excused absences

For apportionment purposes, a student attending for any part of a day may be considered as attending the full day:

> **5 CCR 402.** For apportionment purposes, attendance of a pupil upon schools or classes maintained by a school district or a county superintendent may be counted when the pupil is present during the time lawfully prescribed for the school or class in which he is enrolled and when such attendance meets the requirements prescribed by Education Code Section 46300.
>
> * * *

> **5 CCR 403.** Subject to the provisions of Sections 402, 404, and 405, for apportionment purposes a pupil enrolled in a regular day class or a special day class for the minimum school day applicable to him (except pupils whose attendance is recorded by clock hour) is

Absences
(continued)

> deemed present for the entire school day, unless he is absent for the entire school day, prescribed by local governing board under Education Code Section 46100.

The State School Register (form J-32) is pre-approved and supplied by CDE for recording attendance in elementary schools:

> **5 CCR 422** (a) Absence dues to illness or quarantine shall, in the first instance, be recorded on attendance accounting forms and in state school registers in the same manner as any other absence is recorded.
>
> (b) After a person authorized to make verification has determined that an absence is due to illness or quarantine, such fact shall be recorded as follows:
>
> (1) If attendance records are kept manually and on the negative basis, the absence entry shall be circled with blue or black ink. If attendance records are kept manually and on the positive basis, an attendance entry shall be made and circled with blue or black ink. Circled entries may then be recorded as attendance in the total attendance column.
>
> (2) If attendance records are made by machine, an appropriate symbol shall be used to identify verified absences due to illness or quarantine on monthly attendance summary forms. Absences so identified may then be recorded as attendance in the total attendance column.

When anything other than the J-32 is used to register attendance in elementary schools, and for *any* system used in secondary schools, school authorities must obtain CDE approval. Whether attendance records are kept manually or by machine, the record must identify verified apportionable absences on monthly attendance summary forms (see Chapter V).

The CCR provides specifically for illness absences on the first day(s) of school:

> **5 CCR 424.** Absence due to illness or quarantine shall not be credited for a pupil prior to his having been registered and in attendance upon a school or class.

A pupil who is registered (as a carryover from the previous year, for example, or who was pre-registered during the summer recess), misses the first day(s) of the term, and then attends school, may be credited for the missed day(s) once s/he *has* attended and the excuse has been properly

Absences
(continued)

verified. A pupil who turns up in a district after the beginning of the school year, however, may not be retroactively credited with excused absences occurring prior to the date of actual registration.

Excused absences *not allowed* for apportionment

As set out in Section 46010, no absences in summer school, adult schools and classes, or regional occupational centers and programs (except for pupils concurrently enrolled in a regular high school program) may be credited for apportionments.

The law allows local boards to authorize certain types of absences as excusable for compulsory attendance purposes in regular programs and classes, but not creditable for apportionments:

> **§48205.** Notwithstanding Section 48200, a pupil shall be excused from school for justifiable personal reasons, including, but not limited to, an appearance in court, observance of a holiday or ceremony of his or her religion, attendance at religious retreats, or an employment conference, when the pupil's absence has been requested in writing by the parent or guardian and approved by the principal or a designated representative pursuant to uniform standards established by the governing board. A pupil shall also be excused from school when he or she is the custodial parent of a child who is ill or has a medical appointment during school hours.
>
> A pupil absent from school under this section shall be allowed to complete all assignments and tests missed during the absence that can be reasonably provided and, upon satisfactory completion, shall be given full credit therefor. The teacher of any class from which a pupil is absent shall determine, pursuant to the regulations of the governing board of the school district, what assignments the pupil shall make up and in what period of time the pupil shall complete those assignments. The tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments that the pupil missed during the absence.
>
> For purposes of this section, attendance at religious retreats shall not exceed four hours per semester.
>
> Absences pursuant to this section shall be deemed absences in computing average daily attendance and shall not generate state apportionment payments, except as otherwise provided by Article 1 (commencing with Section 46000) of Chapter 1 of Part 26.

Absences
(continued)

Unlike the apportionment-excused absences described in §46010, the absences described in §48205 are not automatically excused--*except* those of pupils who are custodial parents of children that were ill or had medical appointments during school hours. In each case of potentially excusable absence for "justifiable personal reasons," the pupil's parent/guardian must make a written request for the absence, which the principal or designated representative may (or may not) approve consistent with uniform standards established by the governing board. Justifiable personal reasons include an appearance in court, observance of a religious holiday or ceremony, attendance at religious retreats, or an employment conference; governing boards may add others.

Note that pupils excused for justifiable personal reasons *must* be allowed to make up assignments and tests they missed. Note also that there is no statutory limit on the number of days of personal justifiable absences except in the case of attendance at religious retreats.

The law makes special accommodation for what is commonly called "released time" for religious exercises and instruction:

> **§46014.** Pupils, with the written consent of their parents or guardians, may be excused from school in order to participate in religious exercises or to receive moral and religious instruction at their respective places of worship or at other suitable place or places away from school property designated by the religious group, church, or denomination, which shall be in addition and supplementary to the instruction in manners and morals required elsewhere in this code. Such absence shall not be deemed absence in computing average daily attendance, if all of the following conditions are complied with:
> (a) The governing board of the district of attendance, in its discretion, shall first adopt a resolution permitting pupils to be absent from school for such exercises or instruction.
> (b) The governing board shall adopt regulations governing the attendance of pupils at such exercises or instruction and the reporting thereof.
> (c) Each pupil so excused shall attend school at least the minimum school day for his grade for elementary schools, and as provided by the relevant provisions of the rules and regulations of the State Board of Education for secondary schools.

Absences
(continued)

(d) No pupil shall be excused from school for such purpose on more than four school days per school month.

It is hereby declared to be the intent of the Legislature that this section shall be permissive only.

Absence for religious instruction is apportionable only if the pupil also attends his/her school for at least the minimum day.

Suspensions

CDE has for many years advised school districts that when a pupil is suspended from school before attending for at least the minimum day applicable to him or her, any missed portion of the minimum day amounting to one or more whole hours is not to be credited for apportionments--though the pupil's *actual* attendance is claimable as an hourly fraction of a minimum day.

Instructional Time Requirements

"Minimum day"--fundamental concepts

California's compulsory attendance law requires that pupils "shall attend the public full-time day school or continuation school or classes for the full time designated as the length of the schoolday by the governing board of the school district" (§48200). The governing board's specific responsibility is set out in:

> **§46100.** The governing board of the school district shall, subject to the provisions of this chapter, fix the length of the schoolday for the several grades and classes of the schools maintained by the district.

In establishing a day pursuant to §46100, school districts must observe several separate statutory requirements. The most basic of these are the minimum days for different grade levels:

Basic Minimum Day Length

Grade Level	Minutes
Kindergarten	180
1-3	230
4-8	240
9-12	240

Further, specific limitations and exceptions apply to all these basic minimum days, particularly for pupils in high schools. (Other time requirements apply specifically to continuation education, opportunity education, adult education, and so on--see appropriate sections of Chapter IV.)

Kindergarten and elementary grades

"Noon intermissions" (lunch periods) are expressly precluded from being credited toward the minimum day in elementary schools, and only in kindergarten is recess counted as part of the minimum schoolday:

> **§46115.** The minimum schoolday in kindergartens and in grades 1 to 8, inclusive, in elementary schools, is exclusive of noon intermissions and, except in kindergartens, exclusive of recesses.

For kindergarten the minimum day length is given in:

> **§46117.** The minimum schoolday for pupils in kindergartens is 180 minutes inclusive of recesses, and no units of average daily attendance shall be credited

Instructional Time Requirements

(continued)

for attendance in kindergarten classes if the minimum schoolday of such classes is less than 180 minutes.

Small school districts may institute double-session kindergartens of shorter length, but will then accrue a.d.a. at only half the normal rate:

> **§46119.** The governing board of a school district which has fewer than 40 pupils enrolled in kindergarten classes may make application to the Superintendent of Public Instruction requesting approval to maintain two kindergarten classes of 150 minutes each inclusive of recesses on the same day which are taught by the same teacher. The average daily attendance for such classes shall be adjusted by a multiplication factor of 0.500.

Teachers may not otherwise be assigned to teach two sections of kindergarten in the same schoolday:

> **§46118.** A single-session kindergarten class shall meet all of the following criteria:
>
> (a) The class is maintained for a minimum of 180 minutes per schoolday.
>
> (b) The kindergarten class teacher is assigned to only one session of kindergarten daily as a principal teacher.
>
> (c) The kindergarten teacher is a full-time certificated employee.
>
> (d) The kindergarten teacher shall be available for assistance or assignment in the instructional program of the primary grades when not involved in the kindergarten program.

Kindergarten is the only grade level that also has a *maximum* number of allowable minutes:

> **§46111.** No pupil in a kindergarten shall be kept in school in any day more than four hours exclusive of recesses.
>
> This section shall not apply to the Pasadena Unified School District or counties of the third class as determined pursuant to Section 28024 of the Government Code, as it read on January 1, 1977 [San Diego County]. In addition, this section shall not apply to the San Bernardino Unified School District with regard to any pupil of that district who is determined by the principal of the school in which that pupil is enrolled, pursuant to testing, teacher recommendation, or both, to be developmentally and academically suited for the longer instructional day.

Instructional Time Requirements
(continued)

Note that kindergarten recess counts as instructional time for the purposes of minimum day calculation, but *not* maximum day.

For elementary grades, the minimum day lengths are set out in:

> **§46112.** The minimum schoolday in grades 1, 2, and 3 in elementary schools, except in opportunity schools, classes, or programs, is 230 minutes, except where the governing board of a school district has prescribed a shorter length for the schoolday because of lack of school facilities which requires double sessions, in which case the minimum schoolday in such grades shall be 200 minutes.

Note that running a double-sessions program does not alter the terms of the total annual minutes incentives (see following), and there is *no* special lower minimum for double-sessions above grade 3--or for kindergarten.

> **§46113.** The minimum schoolday in grades 4, 5, 6, 7, and 8 in elementary schools and in special day and evening classes of an elementary school district, except in opportunity schools, classes, or programs, is 240 minutes.

School districts may meet minimum day requirements for kindergarten and the elementary grades by calculating average day length over 10 consecutive days, provided that no one day is shorter than the applicable 'absolute minimum' length given in statute:

> **§46114.** (a) The minimum schoolday in grades 1, 2, and 3 in elementary schools may be computed by determining the number of minutes of attendance in any 10 consecutive schooldays and dividing that number by 10. If the resulting quotient is 230 or more, the pupils shall be deemed to have complied with Section 46112, even if the number of minutes attended in any one schoolday is less than 230, but not less than 170.
>
> (b) The minimum schoolday in grades 4, 5, 6, 7 and 8 in elementary schools may be computed by determining the number of minutes of attendance in any 10 consecutive schooldays and dividing that number by 10. If the resulting quotient is 240 or more, the pupils shall be deemed to have complied with Section 46113, even if the number of minutes attended in any one schoolday is less than 240, but not less than 180.

Instructional Time Requirements
(continued)

> (c) The minimum schoolday in kindergarten in elementary schools may be computed by determining the number of minutes of attendance in any 10 consecutive schooldays and dividing that number by 10. If the resulting quotient is 180 or more, the pupils shall be deemed to have complied with Section 46117, even if the number of minutes attended in any one schoolday is less than 180, but not less than 60.
>
> No computation authorized by this section shall result in any increase in state apportionments.

Passing time in departmentalized settings

CDE has for many years advised school districts that *actual* passing time between separate class sessions in the same departmentalized program, not to exceed 10 minutes in each instance, may be claimed as "instructional time" for apportionment credit. CDE has further advised, however, that passing time is *not* claimable between sessions in different programs. Hence, passing from a regular high school class to an ROP class--even if both are on the same campus--is not claimable.

High school

> **§46141.** The minimum schoolday in any high school, except in an evening high school, a regional occupational center, an opportunity school and in opportunity classes, a continuation high school, in continuation education classes, in late afternoon or Saturday occupationally organized vocational training programs conducted under a federally approved plan for vocational education, and for students enrolled in a work experience education program approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28 of this division, is 240 minutes.

Secondary schools are held to two-day averaging in determining compliance with minimum day regulations:

> **§46142.** The minimum schoolday in a junior high or high school described in Section 46141 may be computed by determining the number of minutes of attendance in any 2 consecutive schooldays and dividing that number by 2. If the resulting quotient is 240 or more, the pupils shall be deemed to have complied with Section 46141, even if the number of minutes attended in any one schoolday is less than 240, but not less than 180.
>
> * * *

Another statutory minimum standard--five courses per semester--applies to Grade 12 pupils in regular education

Instructional Time Requirements
(continued)

(though there are exceptions, discussed in appropriate sections of Chapter IV):

> **§46145.** Commencing with the first semester or quarter that begins after January 1, 1984, pupils in grade 12 shall be enrolled in at least five courses each semester or the equivalent number of courses per quarter. If any pupil in grade 12 is required by medical prescription to attend school for less than five courses during the semester or an equivalent number of courses during the quarter, the average daily attendance for that pupil's attendance shall bear the same proportion to one day of attendance as the number of courses in which the pupil is enrolled bears to five or the equivalent number for the quarter system. [Hence, for example, a senior whose medical prescription forbids his/her attending more than three courses a day earns only 3/5 of one day of attendance per schoolday.]
>
> However, this requirement shall not apply to pupils enrolled in regional occupational programs, regional occupational centers, courses at accredited postsecondary educational institutions, independent study, special education programs where the pupil's individualized instructional program establishes a different number of courses, continuation classes, work experience education programs approved under the provisions of Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, or any other course of study authorized by the governing board which is equivalent to the approved high school course of study.

(See next page for table of minimum day requirements)

Instructional Time Requirements
(continued)

Minimum day length--summary table

Minimum Day--Regular Education

Grade Level	Minimum Length (minutes)	'Absolute Minimum' Length (minutes)	Method of Averaging	Ed. Code Sections
Kindergarten*	180 (240 max)	60	10-day	46117, 46114, 46115, 46111
1-3	230	170	10-day	46112, 46114
4-8	240	180	10-day	46113, 46114
9-12	240	180	2-day	46141, 46142

Other special minimum day provisions are found in §§46160 and 46161 (pupils in junior high or high schools with weekly instead of daily class scheduling--"1200 minutes during any five-schoolday period"), 46144 (pupils enrolled in work experience--"four periods totaling at least 180 minutes"), 46146 (pupils in grade 11 or 12 enrolled part-time in the University of California or California State University systems; pupils in any grade enrolled part-time in community college--180 minutes), and 52316 (pupils in grades 10, 11, or 12 who are attending ROC/P and who are excused from attending physical education because of travel-time hardship--180 minutes). Sections 46147 and 48801 allow exemptions from the minimum day for second-semester grade 12 pupils enrolled in work experience and pupils attending community college part-time.

* Double session kindergartens can be 150 minutes but earn only 1/2 a.d.a (§46119).

Length of year

To qualify for basic revenue limit apportionments, a district must maintain its schools (other than those with year-round schedules) for at least 175 days each year:

> **§41420.** (a) No school district, other than one newly formed shall, except as otherwise provided in this article, receive any apportionment based upon average daily attendance from the State School Fund unless it has maintained the regular day schools of the district for at least 175 days during the preceding fiscal year.
>
> (b) If any school within a school district fails to maintain its school for the required 175 days, the Superintendent of Public Instruction shall withhold from the district's apportionment based upon average daily attendance a product of 0.01143 times the

Instructional Time Requirements
(continued)

district's apportionment for each additional day the school would have had to maintain operations to meet the 175 day requirement.

For the purpose of this subdivision, except as otherwise provided, the State Board of Education shall establish the standards and criteria for defining a day qualifying for the 175-day minimum requirement.

§41421. A school district is a newly formed school district up to the close of the fiscal year in which its formation became effective for all purposes.

Year-round schools may be in operation for as few as 163 days per year:

§37670. (a) Notwithstanding any other provision of law, any school district may operate a program of year-round scheduling at one or more schools within the district for as few as 163 days in each fiscal year, so long as the number of annual instructional minutes is not less than that of schools of the same grade levels utilizing the traditional school calendar.

* * *

(c) A program conducted pursuant to this section shall be eligible for apportionment from the State School Fund.

The 1983 Educational Reform Act established 'longer year' financial incentives for districts that maintain school for at least 180 days (or the equivalent, for year-round schools only):

§46200. (a) In the 1984-85 fiscal year, for each school district which certifies to the Superintendent of Public Instruction that it offers 180 days or more of instruction per school year, the Superintendent of Public Instruction shall apportion thirty-five dollars ($35) per unit of average daily attendance, exclusive of adult average daily attendance, the average daily attendance of pupils while participating in regional occupational centers and programs, and average daily attendance for pupils attending summer school. [Note that exact dollar amounts included in statute are subject to modification in each year's budget act.] A year-round school shall be deemed to be in compliance with the 180-day requirement if it certifies to the Superintendent of Public Instruction that it is a year-round school and maintains its school for five more days, or the equivalent thereof, than maintained in the 1982-83

Instructional Time Requirements
(continued)

> fiscal year not to exceed 180 days. Each school district which received an apportionment pursuant to this subdivision in the 1984-85 fiscal year shall add thirty-five dollars ($35) to the district's base revenue limit per unit of average daily attendance for the 1985-86 fiscal year.
>
> (b) For any school district which received an apportionment pursuant to subdivision (a) and which offers less than 180 days of instruction in the 1985-86 fiscal year or any fiscal year thereafter, and which does not provide the minimum number of instructional minutes specified in subdivision (a) of Section 46201 for that fiscal year, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for that fiscal year by an amount attributable to the increase received pursuant to subdivision (a), as adjusted in fiscal years subsequent to the 1984-85 fiscal year.

'Longer-day' incentives for increased total minutes

Besides adding incentives for extending the school year to at least 180 days, the 1983 Act also established incentives for districts to offer at least specified minimum totals of instructional minutes per year. The incentives, along with the penalties for non-compliance, are set out in §46201 and following.

The 1983 Act specified 1982-83 as the base year for annual minutes requirements: if a district offered less than the statutorily specified number of instructional minutes that year, it had to increase its instructional time to at least the statutory minimum in subsequent years to qualify for incentive funding. A district that offered *more* minutes in 1982-83 than the statutory minimum, however, must continue to offer at least the same amount to qualify for incentive funds. In §46201, paragraphs (1), (2), and (3) of subdivision (a) describe the phase-in schedule for adjusting minutes totals in fiscal years 1984-85, 1985-86, and 1986-87, (b) states the 'maintenance-of-effort' provision, and (c) outlines the penalties for noncompliance in succeeding fiscal years.

> **§46201.** (a) In each of the 1984-85, 1985-86, and 1986-87 fiscal years, for each school district that certifies to the Superintendent of Public Instruction that it offers at least the amount of instructional time specified in this subdivision at a grade level or levels, the Superintendent of Public Instruction shall determine an amount equal to twenty dollars ($20) per unit of current year second principal apportionment regular average

Instructional Time Requirements
(continued)

daily attendance in kindergarten and grades 1 to 8, inclusive, and forty dollars ($40) per unit of current year second principal apportionment regular average daily attendance in grades 9 to 12, inclusive. This section shall not apply to adult average daily attendance, the average daily attendance for pupils attending summer school, alternative school, regional occupational centers and programs, continuation high schools, or opportunity schools, and the attendance of pupils while participating in community college or independent study programs.

(1) In the 1984-85 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982-83 fiscal year.

(B) One-third of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982-83 fiscal year.

(2) In the 1985-86 fiscal year, for kindergarten and each of grades 1 to 12, inclusive, the sum of subparagraphs (A) and (B):

(A) The number of instructional minutes offered at that grade level in the 1982-83 fiscal year.

(B) Two-thirds of the difference between the number of minutes specified for that grade level in paragraph (3) and the number of instructional minutes offered at that grade level in the 1982-83 fiscal year.

(3) In the 1986-87 fiscal year:

(A) Thirty-six thousand [36,000] minutes in kindergarten

(B) Fifty thousand four hundred [50,400] minutes in grades 1 to 3, inclusive.

(C) Fifty-four thousand [54,000] minutes in grades 4 to 8, inclusive.

(D) Sixty-four thousand eight hundred [64,800] minutes in grades 9 to 12, inclusive.

(4) In any fiscal year, each school district that receives an apportionment pursuant to subdivision (a) for average daily attendance in grades 9 to 12, inclusive, shall offer a program of instruction that allows each student to receive at least 24 course years of instruction, or the equivalent, during grades 9 to 12, inclusive.

(5) For any school site at which programs are operated in more than one of the grade levels enumerated in subparagraph (B) or (C) of paragraph (3), the school district may calculate a weighted average of minutes for

Instructional Time Requirements
(continued)

those grade levels at that school site for purposes of making the certification authorized by this subdivision.

(b) If any of the amounts of instructional time specified in paragraph (3) of subdivision (a) is a lesser number of minutes for that grade level than actually provided by the district in the same grade in the 1982-83 fiscal year, the 1982-83 fiscal year number of minutes for that grade level shall instead be the requirement for the purposes of subdivision paragraphs (1), (2), and (3) of (a).

(c) For any school district that receives an apportionment pursuant to subdivision (a) in the 1984-85 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (1) of subdivision (a) in the 1985-86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1985-86 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1985-86 fiscal year and fiscal years thereafter.

For each school district that receives an apportionment pursuant to subdivision (a) in the 1985-86 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (2) of subdivision (a) in the 1986-87 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1986-87 fiscal year base revenue limit per unit of average daily attendance pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1986-87 fiscal year and fiscal years thereafter.

For any school district that receives an apportionment pursuant to subdivision (a) in the 1986-87 fiscal year and that reduces the amount of instructional time offered below the minimum amounts specified in paragraph (3) of subdivision (a) in the 1985-86 fiscal year or any fiscal year thereafter, the Superintendent of Public Instruction shall reduce the base revenue limit per unit of average daily attendance for the fiscal year in which the reduction occurs by an amount attributable to the increase in the 1987-88 fiscal year base revenue limit per unit of average daily attendance

Instructional Time Requirements
(continued)

> pursuant to paragraph (4) of subdivision (b) of Section 42238, as adjusted in the 1987-88 fiscal year and fiscal years thereafter.
>
> * * *

Section 46202 sets out an additional penalty provision for districts that ever subsequently offer fewer total annual minutes of instruction than they did in the base year:

> (a) [I]n any fiscal year, if the governing board of a school district offers less instructional time than the amount of instructional time fixed for the 1982-83 fiscal year, the Superintendent of Public Instruction shall in that fiscal year reduce that district's apportionment by the average percentage increase in the base revenue limit for districts of similar type and size, multiplied by the district's units of average daily attendance.
>
> * * *

The following table summarizes the minutes requirements given in §46201(a)(3):

Minutes Requirements

Grade Level	Annual Minutes
Kindergarten	36,000
1-3	50,400
4-8	54,000
9-12	64,800

It follows that for districts seeking to qualify for 'longer-day' incentive funding, the statutory 'minimum day' figures are not an adequate basis for day-length planning or establishment of bell schedules. The minimum-minutes-per-year figure for grades 1-3, for example, is 50,400, which is greater than the product of 230 minutes (the statutory minimum given in §46112) times 180 days--41,400. Note also that districts offering double sessions with reduced daily minutes in grades 1-3 (pursuant to §46112) are not exempt from these yearly totals.

Minutes calculations --instructional offering

Many school districts, and practically all elementary schools, make no distinction between additional instruction offered for incentive funding purposes and the schoolday which students are required to attend. CDE has advised districts that when departmentalized schedules allow pupils to choose courses, the concept of "offering" becomes more

Instructional Time Requirements
(continued)

complicated. Students do not need to be guaranteed the courses of their individual choice, so long as courses having a reasonable breadth of appeal are open to them; and the district must be able to demonstrate that the instructional offering is indeed realistically available to all pupils in the group of grade levels concerned. A course for only one grade in a group would not constitute a valid offering, nor would a course open only to disadvantaged or gifted students, or available only to those who have taken certain prerequisites.

Instructional time must be available in practical terms, as well as academic: a course "offered" in the sense that students may take it only by giving up their lunch period is not truly an offering, nor is a course "offered" when taking it means missing the school bus home. Inherent in the term "offering" is that students need not be required to attend the instruction in question. If, however, only a small number of students do accept, the school must bear the burden of demonstrating, as part of the audit trail, that the offering was indeed made in good faith and was realistically available--the smaller the amount of participation, the heavier the burden.

When a district uses a so-called "early-late instruction program" or "split schedule," in which half the pupils in particular grade levels come to school "early" for more individualized instruction and the other half stay "late," the district may be able to apply the total time in both sessions toward meeting the instructional time incentives, as long as other provisions are met:

> **§46205.** For purposes of this article, instructional time for school districts conducting early-late instructional programs in kindergarten and grades 1 to 8, inclusive, shall be computed by adding the total amount of instructional time provided in each portion of the early-late instructional programs to the amount of instructional time offered when all pupils in the class are scheduled to attend. It is not the intent of the Legislature to disrupt or restrict early-late instructional programs for pupils in kindergarten and grades 1 to 8, inclusive.
>
> This section shall be applicable only if the early-late instructional program was in operation during the 1983-84 fiscal year, except that the Superintendent of Public Instruction may approve, based on educational reasons, the application of this section to programs commencing operation after the 1983-84 fiscal year.

Instructional Time Requirements
(continued)

This early-late program instructional time calculation applies only to incentive funding; Section 46205 does not apply to other time mandates.

The law has long required districts to operate their individual schools for equal lengths of time:

> **§37202.** Except where a school has been closed by order of a city or a county board of health, or of the State Board of Health, on account of contagious disease, or where the school has been closed on account of fire, flood, or other public disaster, the governing board of any school district shall maintain all of the elementary day schools established by it for an equal length of time during the school year, and all of the day high schools established by it for an equal length of time during the school year.

The 'longer-day' incentive funding statutes also require districts to comply districtwide to be eligible. It *is* permissible to use weighted averaging (see following) in individual schools. If averaging is inapplicable, however, and one grade in just one of a district's schools fails to meet its instructional time requirement, the district loses *all* 'longer-day' funds in that year for *all* of the pupils in that grade, in *all* of the district's schools.

The 'longer-year' requirements apply districtwide as well: one school that fails to offer 180 days prevents the whole district from receiving 'longer-year' incentive funds under §46200--unless, of course, that school was offering fewer days for a valid reason (a qualifying emergency, for example--see "Emergencies and Apportionment Credit," following--or because it was operating a year-round schedule that was otherwise in compliance).

The use of weighted averaging to meet instructional time incentive requirements offers computational flexibility, but only within each individual school. While the method may be used at several school sites, each site's average must be calculated separately.

> **§46201.** (a) * * *
> (5) For any school site at which programs are operated in more than one of the grade levels enumerated in subparagraph (B) or (C) of paragraph (3), the school district may calculate a weighted average of minutes for

Instructional Time Requirements
(continued)

those grade levels at that school site for purposes of making the certification authorized by this subdivision.

* * *

Staff development days as instructional time

For the purposes of total yearly minutes calculations for incentive funding, there are certain circumstances under which schools may claim credit for instructional minutes when students are not actually present. On a properly established "teacher inservice" or "staff development" day, when pupils attend for a minimum day or not at all, a school may claim apportionment and incentive funding credit for a full regular day. No more than eight such days may be claimed in any fiscal year. (The requirements applying to a local board's establishment of apportionable staff development days lie outside the scope of this manual.)

CDE has advised districts that as "provision of time during the regular school year," the staff development day(s) must be scheduled on one of the calendar days identified as a normal day of that regular school year in the official school calendar adopted by the local board--not on a Saturday or Sunday (on which non-truants may not be required to attend), or school holiday. CDE understands the law to provide that, for the purposes of instructional time computation, staff development days are separate one-day events and may not be divided into partial day equivalents: the maximum of eight days may not be turned into 16 half-days or any similar variant.

"During the regular school year" includes immediately preceding what would otherwise be the first normal day in the regular school year (or immediately following the last normal day), but a staff development day may not be isolated in vacation time. It is permissible to have two (or more) staff development days together back to back, if all the other qualifications are met.

If a staff development day is held in conjunction with a minimum day of student attendance, then the apportionable attendance of the minimum day is used. If students are not present for any part of the staff development day, then the total apportionable attendance on the last regular school day before *or* on the next regular school day after the staff development day is used to calculate apportionment attendance credit.

Instructional Time Requirements
(continued)

Failure to meet instructional time requirements

Pursuant to §§46201 and 46202, failure to continue to meet incentive funding instructional time requirements may have drastic financial consequences for a district: if a district inadvertently offers a few minutes less than a goal level, or, perhaps overlooking a holiday, miscalculates the number of days in a given year, statute provides no direct means for CDE to hold the district harmless. Specific legislation (Chapter 782, Statutes of 1989) gives the State Board of Education limited authority to grant waivers for insufficient instructional time or days, but it should be noted that the Education Code section (§46206) enacted through this legislation must be read in light of an uncodified preceding section of the chapter:

> **SECTION 1.** (a) It is the intent of the Legislature that the State Board of Education grant waivers to statutory minimum instructional time requirements as specified in Sections 46200.5, 46201, 46201.1, 46201.5, and 46202 of the Education Code only in the event of natural disasters, such as earthquake, fire, or flood; emergencies, such as events that involve the health and safety of pupils; or unavoidable human error, provided that, in the case of human error that both of the following apply:
>
> (1) The board may waive a portion of the penalty, based upon the number of pupils affected.
>
> (2) The district shall make up the lost instructional time no later than the year immediately following the year in which the waiver is granted.
>
> (b) It is further the intent of the Legislature that school districts make every effort to make up lost instructional time during the school year in which the loss occurred, rather than seek a waiver pursuant to Section 46206 of the Education Code, as added by this act.

> **§46206.** Notwithstanding any other provision of law, beginning with the 1984-85 school year and each school year thereafter, the State Board of Education may waive for any sufficient reason, as determined by the board, all or any portion of the fiscal penalties which may be levied for failing to maintain the prescribed minimum length of time for the instructional school day and year as provided in this article. Any waiver granted by the board pursuant to this section shall be applicable only to the district receiving the waiver for one year and shall be granted only when the time involved is equal to or less than 900 minutes of instructional time. The waiver shall include a plan for

Instructional Time Requirements
(continued)

> the district to make up any instructional time lost, which precipitated the need for the waiver during a school year, in the school year immediately following the year in which the waiver is granted. If a school district fails to make up the lost instructional time in accordance with the plan submitted to the State Board of Education, the fiscal penalties set forth in Sections 46200, 46200.5, 46201, 46201.1, 46201.5, and 46202 shall be imposed. Any waiver granted pursuant to this section shall be included in an annual report by the State Board of Education to the Legislature regarding waivers granted by the State Board of Education pursuant to this section.
>
> Exceptions to the one-year limitation and to the 900 minute limit may be granted to any school district that maintained a single session kindergarten class in the 1982-83 school year for more than the maximum number of 240 minutes permitted by state law, and that, due to the school district's growth and facilities limitations, is required to operate two sessions of kindergarten in the same classroom.

Allowing a margin for error of at least an extra few minutes each day is a prudent precaution that could prevent a district from losing substantial funding if a mistake were discovered too late.

Emergencies and Apportionment Credit

Emergency conditions: school closures and decreased attendance

When emergency conditions force schools to close, or when an emergency materially decreases attendance at schools that remain open, districts can apply to the State Superintendent of Public Instruction to receive normal apportionment credit and to be credited as complying with instructional time requirements for 'longer day and year' incentive funding. When an emergency forces school closure, a district may be allowed to reduce its divisor when calculating a.d.a.; when a school remaining open suffers materially decreased attendance, CDE may award apportionment credit as if normal attendance had occurred.

Note, however, that where foggy or snowy roads (for example) are regular seasonal occurrences, school districts should plan accordingly, with waivers available only when the amount of disruption is truly unforeseeable in light of past experience.

Three Education Code sections and a CCR section apply:

> **§41422.** A district which is prevented from maintaining its schools during a fiscal year for at least 175 days because of fire, flood, or epidemic, or because of any order of any military officer of the United States or the state to meet an emergency created by war, or of any civil officer of the United States, of the state, of any county, city and county, or city authorized to issue such order to meet an emergency created by war, or because of other extraordinary conditions, or because of inability to secure or hold a teacher, or because of the illness of the teacher, which fact shall be shown to the satisfaction of the Superintendent of Public Instruction by the affidavits of the members of the governing board of the school district and of the county superintendent of schools, shall receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school for at least 175 days.
>
> This section shall also apply to districts which, in the absence of one or more of the conditions prescribed by this section, would have qualified for funds under Sections 46200 or 46201.

> **§46390.** Where a school in a district maintaining more than one school is closed for a part of a term by order of a city or county board of health or of the State Board of Health, or because of fire, flood, impassable roads, epidemic, or other emergency, or by an order

Emergencies and Apportionment Credit
(continued)

provided for in Section 41422, the average daily attendance of the school shall be estimated separately, as provided in Section 46392, and added to the average daily attendance of the other schools of the district.

§46392. Whenever the average daily attendance of any school district, county office of education, or regional occupational center or program during any fiscal year has been materially decreased during any fiscal year because of any of the following, the fact shall be established to the satisfaction of the Superintendent of Public Instruction by affidavits of the members of the governing board of the school district or county office of education, and the county superintendent of schools:

(a) Fire.
(b) Flood.
(c) Impassable roads.
(d) An epidemic.
(e) An earthquake.
(f) The imminence of a major safety hazard as determined by the local law enforcement agency.
(g) A strike involving transportation services to pupils provided by a nonschool entity.
(h) An order provided for in Section 41422.

The average daily attendance of the district for the fiscal year shall be estimated by the Superintendent of Public Instruction in a manner which credits to the school district for determining the apportionments to be made to the district from the State School Fund approximately the total average daily attendance which would have been credited to the school district had the emergency not occurred or had the order not been issued.

This section applies to any average daily attendance which occurs during any part of a school year.

5 CCR 428. A decrease in average daily attendance is material for the purposes of Education Code Section 46392 when at least ten percent (10%) of the students who would normally attend school do not attend on any one day. Any decrease in a necessary small school as defined in Education Code Section 41702 is material for the same purpose. The average daily attendance of the school during either the month of May or the month of October of the same school year shall be used to determine the normal attendance of a school for purposes of this Section.

Emergencies and Apportionment Credit
(continued)

Emergency credit approval and the J-13A form

Apportionment credit for school closure or material decrease is allowed only when the reason for closure or loss of attendance can reasonably be related to an emergency situation. Once schools are reopened, attendance should return to normal within a few days; the district should claim material decrease credit only for the days immediately following the emergency. When a district requests approval of school closure or material decrease credit via the J-13A form (Request for Allowance of Attendance Because of Emergency Conditions), the district must explain the extraordinary conditions that prevented normal operations or kept students from returning to class.

Attendance credit and approval of school closures may be obtained by submitting three copies of Form J-13A to the County Office of Education (county offices file their own J-13A's directly with CDE). Form J-13A may also be used to make claims for attendance when attendance records have been lost or destroyed. Approval requires the affidavits of a majority of the district's governing board members and the County Superintendent of Schools. After the County Superintendent of Schools has verified the supporting information and approved the request, CDE staff reviews the materials and notifies districts and county offices of the final decision.

Calculating material decrease credit

Lower than normal attendance may result when schools operate during or immediately after an emergency, and the extent of the decrease determines whether a district can seek a remedy through the waiver process. The basis of comparison to "normal attendance"--as provided in 5 CCR 428 (amended effective December, 1989)--is "the average daily attendance of the school during either the month of May or the month of October of the same school year."

If the attendance of a school or program is less than 90 percent of "normal" each day for a reasonable period after the event, then the district may assume that a case exists for claiming emergency attendance credit for the "material decrease" of a.d.a. In a necessary small school, any reduction of a.d.a.--even if less than 10 percent--may be considered material.

For example, a district with "normal" a.d.a. of 388 (its figure for May of that year) may receive credit for 388 days of student attendance for each day that the emergency reduced creditable attendance below 349--90 percent of 388. (If those options do not appear reasonable under particular

Emergencies and Apportionment Credit

(continued)

conditions, the Superintendent of Public Instruction retains broad authority under Section 41422 to approve alternative methods of calculating normal attendance as appropriate.)

Credit approval for school closures

According to §41422, a district forced to close "shall receive the same apportionment from the State School Fund as it would have received had it not been so prevented from maintaining school" for the required number of days. To prevent emergency-related school closure from affecting average daily attendance, districts deduct approved emergency days from the days in the reporting period divisor when calculating the average daily attendance of the school.

If different schools are closed for different days, then average daily attendance is calculated on a school-by-school basis (using the appropriate divisor for each school); the sum of the a.d.a. of all schools then produces a district total to report to CDE. The approved emergency days *do* count as credit towards the 175- and 180-day school year requirements. The regularly scheduled minutes of instruction for those days also count toward the annual minutes requirement for 'longer day' and 'longer year' incentive funding.

Approved J-13A forms, combined with other district records, serve to document districts' compliance with instructional time laws (including 'longer day' and 'longer year' requirements) and show why different divisors may appear in the computation of a.d.a. for different schools.

Apportionment Consequences of Interdistrict/Interstate Attendance

Crediting district of attendance

Apportionment consequences for interdistrict attendance are covered in:

> **§46607.** (a) Except as provided in subdivision (b) or (c), the average daily attendance for attendance of pupils from another district shall be credited to the district of attendance for purposes of determining state apportionments and the revenue limit pursuant to Section 42237 or 42238.
>
> (b) For any district that would have a reduction of 25 percent or more in its federal grant pursuant to Public Law 81-874 if the average daily attendance of pupils residing within the district were credited to the district of attendance, then the average daily attendance resulting from an interdistrict attendance agreement shall be credited to the district of residence and the district of residence shall pay a tuition to the district of attendance no later than the next August 31, after the close of the fiscal year as follows:
>
> (1) For attendance in regular day schools and summer schools the tuition per unit of average daily attendance, if any, shall not exceed the actual cost per unit of average daily attendance for the grade level or program less any income, other than tuition, received by the district of attendance on account of such attendance.
>
> (2) The district in which the pupil resides shall reduce its total revenue limit pursuant to Section 42238 by the total excess, if any, of its revenue limit per unit of average daily attendance multiplied by the total interdistrict attendance over the total tuition to be paid to districts of attendance.
>
> The district in which the pupil resides may increase its total revenue limit pursuant to Section 42238 by the total excess, if any, of the total tuition to be paid to districts of attendance over the district of residence's revenue limit per unit of average daily attendance multiplied by the total interdistrict average daily attendance.
>
> (c) For any consortium of school districts operating an adult education and a regional occupational program serving four or more school districts, the school districts may agree to claim the unit of average daily attendance on the basis of the district of residence and pay such interdistrict tuition to the district of attendance as agreed to by the participating districts.

Interstate attendance

Under certain circumstances it is permissible for pupils who live in Oregon, Nevada, or Arizona to attend California

Apportionment Consequences of Interdistrict/Interstate Attendance
(continued)

public schools--and vice versa--as long as the required financial arrangements are made:

> **§48050.** The governing board of any school district may, with the approval of the county superintendent of schools, admit to the elementary and high schools of the district pupils living in an adjoining state which is contiguous to the school district. An agreement shall be entered into between the governing board and the governing board or authority of the school district in which the pupils reside providing for the payment by the latter of an amount sufficient to reimburse the district of attendance for the total cost of educating the pupil, including the total of the amounts expended per pupil for the current expenses of education, the use of buildings and equipment, the repayment of local bonds and interest payments and state building loan funds, capital outlay, and transportation to and from school. The amount of the tuition for the current expenses of education per unit of average daily attendance of pupils from the adjoining state shall equal the average current expenditure, exclusive of all transportation expenditures, per unit of average daily attendance in the district of attendance. The per pupil cost attributable to capital outlay shall be on the basis of an average expenditure for the preceding five years. The cost of transportation shall not exceed ten dollars ($10) per month. Tuition payments shall be made during the school year with the final payment at the end of the school year after all costs have been determined. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of the pupils shall not be included in computing the average daily attendance of the class or school for the purpose of obtaining apportionment of state funds. In lieu of entering an agreement with the governing board or authority of the school district in which the pupil from the adjoining district resides, the governing board of the school district in this state may enter an agreement with the parent or guardian of the pupil on the same terms as is provided in this section.
>
> **§2000.** The county superintendent of schools of any county contiguous to an adjoining state may grant permission to pupils residing in the county to attend elementary school or high school in a school district of the adjoining state and may provide for the transportation of the pupils to the school.

Apportionment Consequences of Interdistrict/Interstate Attendance
(continued)

§2002. The county superintendent of schools shall pay for the tuition of pupils residing in his county and attending school in an adjoining state from the county school tuition fund of his county pursuant to this article.

§2003. The county superintendent of schools may provide for the transportation of such pupils to and from their homes and the school in an adjoining state attended by them. For this purpose the county superintendent of schools is authorized to purchase, maintain, and operate one or more schoolbuses and to contract with a responsible party or parties for the providing of such transportation by such party or parties.

In lieu of providing such transportation for any such pupil, the county superintendent of schools may pay the parent or guardian of each such pupil five cents ($0.05) per mile for each mile necessarily traveled by such pupil in going to and from his home and school except that if there is more than one such pupil in the household of the parent or guardian the county superintendent of schools may pay two and one-half cents ($0.025) for each such mile for each additional pupil in the household. The total amount paid to any parent or guardian hereunder shall not in any month exceed the sum of fifty dollars ($50) for the one pupil in the household of such parent or guardian and twenty-five dollars ($25) for each additional pupil in the same household.

§46609. The governing board of a unified school district, whose boundaries are coterminous with the boundaries of a county, and which is contiguous to an adjoining state, may provide for the education of all or any number of the high school pupils of the district who reside in the district by the attendance of these pupils at the schools of a school district of an adjoining state. The governing board of the unified school district may enter an agreement with the school district of an adjoining state for the education of these pupils, subject to the terms and conditions agreed upon. The provisions of Sections 2000 to 2011, inclusive, do not apply to pupils educated pursuant to an agreement authorized by this section.

The average daily attendance of pupils educated pursuant to an agreement authorized by this section shall be credited to the district of residence for

Apportionment Consequences of Interdistrict/Interstate Attendance
(continued)

apportionment purposes. The superintendent of schools of the district, or the principal of the school, in the adjoining state attended by the pupils under such an agreement shall, not later than July 2 of each year, certify, to the county superintendent of schools having jurisdiction over the school district of residence of the pupils, the average daily attendance of the pupils of the district attending the schools of the school district in the adjoining state. Certification shall be made on forms furnished by the Superintendent of Public Instruction. The county superintendent of schools shall report the average daily attendance to the Superintendent of Public Instruction, who shall include the average daily attendance in his report of average daily attendance in all of the duly established schools of the state for the last preceding school year certified by him to the State Controller.

Attendance by pupils living in Mexico

The law specifically provides for attendance in California public schools by pupils who reside in the only "foreign country adjacent to this state":

> **§48051.** Any person, otherwise eligible for admission to any class or school of a district of this state, whose parents are or are not citizens of the United States, whose actual and legal residence is in a foreign country adjacent to this state, and who regularly returns within a 24-hour period to said foreign country may be admitted to the class or school of the district by the governing board of the district.
>
> **§48052.** The governing board of the district shall, as a condition precedent to the admission of any person, under Section 48051, require the parent or guardian of such person to pay to the district an amount not more than sufficient to reimburse the district for the total cost of educating the person, including the total of the amounts expended per pupil for the current expenses of education, the use of buildings and equipment, the interest payments and state building loan repayment of local bonds and funds, capital outlay, and transportation to and from school. The per pupil cost attributable to transportation shall not exceed ten dollars ($10) per month. Tuition payments shall be made in advance for each month or semester during the period of attendance. If the amount paid is more or less than the total cost of education and transportation, adjustment shall be made for the following semester or school year. The attendance of the pupils shall not be

Apportionment Consequences of Interdistrict/Interstate Attendance

(continued)

> included in computing the average daily attendance of the class or school for the purpose of obtaining apportionment of state funds. The school district shall not be eligible for nonimmigrant or noncitizen reimbursement under the provisions of Chapter 11 (commencing with Section 42900) or Part 24 of Division 3 of this title, Article 2 (commencing with Section 56865) of Chapter 6 of Part 30 of this division for these students.

Note that no apportionment credit may be claimed for the attendance of pupils who reside in another state or country.

Class Size Penalties

Kindergarten

State law provides penalties--in the form of a.d.a. reductions at P-2--for class sizes in excess of those permitted by specified formulas.

Kindergarten penalties are computed using the *greater* number of pupils produced *either* by all the enrollments in excess of 33 in each class that has an enrollment of more than 33, *or* by the total number of pupils by which the average class size exceeds 31:

> **§41378.** The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the kindergarten classes maintained by each school district maintaining kindergarten classes.
>
> (a) The number of pupils enrolled in each kindergarten class, the total enrollment in all such classes, and the average number of pupils enrolled per class.
>
> (b) The total number of pupils which are in excess of thirty-three (33) in each class having an enrollment of more than thirty-three (33).
>
> (c) The total number of pupils by which the average class size in the district exceeds 31.
>
> (d) The greater number of pupils as determined in (b) or (c) above.
>
> (e) He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (d) of this section by ninety-seven hundredths (0.97). He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.

Grades 1-3, 4-8

If any class size in grades one through three exceeds 32, *or* if the average number of pupils per class exceeds 30, the penalty is computed on the excess enrollments *over* 30. In grades four through eight, penalties may be computed if a district's average number of pupils per teacher exceeds the greater of 29.9 *or* the district's own average number of pupils per teacher in the base year of 1964-65.

> **§41376.** The Superintendent of Public Instruction, in computing apportionments and allowances from the State School Fund for the second principal apportionment, shall determine the following for the regular day classes of the elementary schools maintained by each school district:
>
> (a) For grades 1 to 3, inclusive, he shall determine the number of classes, the number of pupils enrolled in

Class Size Penalties
(continued)

each class, the total enrollment in all such classes, the average number of pupils enrolled per class, and the total of the numbers of pupils which are in excess of thirty (30) in each class.

For those districts which do not have any classes with an enrollment in excess of 32 and whose average size for all the classes is 30.0 or less, there shall be no excess declared. For those districts which have one or more classes in excess of an enrollment of 32 or whose average size for all the classes is more than 30, the excess shall be the total of the number of pupils which are in excess of 30 in each class having an enrollment of more than 30.

(b) For grades 4 to 8, inclusive, he shall determine the total number of pupils enrolled, the number of full-time equivalent classroom teachers, and the average number of pupils per each full-time equivalent classroom teacher. He shall also determine the excess if any, of pupils enrolled in such grades in the following manner:

(1) Determine the number of pupils by which the average number of pupils per each full-time equivalent classroom teacher for the current fiscal year exceeds the greater of the average number of pupils per each full-time equivalent classroom teacher in all the appropriate districts of the state, as determined by the Superintendent of Public Instruction, for October 30, 1964, or the average number of pupils per each full-time equivalent classroom teacher which existed in the district on either October 30, 1964 or March 30 1964, as selected by the governing board.

(2) Multiply the number determined in (1) above by the number of full-time equivalent classroom teachers of the current fiscal year.

(3) Reduce the number determined in (2) above by the remainder which results from dividing such number by the average number of pupils per each full-time equivalent classroom teacher for October 30, 1964, as determined by the Superintendent of Public Instruction in (1) above.

(c) He shall compute the product obtained by multiplying the excess number of pupils, if any, under the provisions of subdivision (a) of this section by ninety-seven hundredths (0.97), and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to district change in average daily attendance. Change in average daily attendance shall be determined by dividing average daily attendance in grades 1, 2 and 3 reported for purposes of the first principal apportionment of the current year by

Class Size Penalties
(continued)

that reported for purposes of the first principal apportionment of the preceding year.

(d) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class pursuant to subdivision (a) of this section, and there is no excess number of pupils computed pursuant to subdivision (b) of this section, he shall decrease the average daily attendance reported under the provisions of Section 41601 by the product determined under subdivision (c) of this section.

(e) If the school district reports that it has maintained, during the current fiscal year, no classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall compute the product obtained by multiplying the excess number of pupils computed pursuant to subdivision (b) of this section by ninety-seven hundredths (0.97) and shall multiply the product so obtained by the ratio of statewide change in average daily attendance to the district change in average daily attendance. He shall decrease the average daily attendance reported under the provisions of Section 41601 by the resulting product.

(f) If the school district reports that it has maintained, during the current fiscal year, any classes in which there were enrolled pupils in excess of thirty (30) per class determined pursuant to subdivision (a) of this section, and there is an excess number of pupils computed pursuant to subdivision (b) of this section, he shall make the following computation: He shall add to the product determined under subdivision (c) of this section, the product determined under subdivision (e) of this section and decrease the average daily attendance reported under the provisions of Section 41601 by this total amount.

The governing board of each school district maintaining elementary schools shall report for the fiscal year 1964-65 and each year thereafter the information required for the determination to be made by the Superintendent of Public Instruction under the provisions of this section in accordance with instructions provided on forms [J-7] furnished and prescribed by the Superintendent of Public Instruction. Such information shall be reported by the school district together with, and at the same time as, the reports required to be filed for the second principal

Class Size Penalties
(continued)

apportionment of the State School Fund. The forms on which the data and information is reported shall include a certification by each school district superintendent or chief administrative officer that the data is correct and accurate for the period covered, according to his best information and belief.

For purposes of this section a "full-time equivalent classroom teacher" means an employee of an elementary, high school, or unified school district, employed in a position requiring certification qualifications and whose duties require him to teach pupils in the elementary schools of that district in regular day classes for the full time for which he is employed during the regular schoolday. In reporting the total number of full-time equivalent classroom teachers, there shall be included, in addition to those employees defined above, the full-time equivalent of all fractional time for which employees in positions requiring certification qualifications are required to devote to teaching pupils in the elementary schools of the district in regular day classes during the regular schoolday.

For purposes of this section, number of pupils enrolled in each class means the average of the active enrollment in that class on the last teaching day of each school month which ends prior to April 15th of each school year.

The provisions of this section are not applicable to school districts with less than 101 units of average daily attendance for the current fiscal year.

Although no decreases in average daily attendance shall be made for the fiscal year 1964-65, reports are required to be filed under the provisions of this section, and the Superintendent of Public Instruction shall notify each school district of the amount of the decrease in state allowances which would have been effected had such decrease in average daily attendance been applied.

The Superintendent of Public Instruction shall adopt rules and regulations which he may deem necessary for the effective administration of this section. Such rules and regulations may specify that no decrease in average daily attendance reported under the provisions of Section 41601 shall be made for a school district on account of large classes due to instructional television or team teaching, which may necessarily involve class sizes at periods during the day larger than the standard set forth in this section.

Class Size Penalties
(continued)

CCR sections on mixed grades, waivers

Greater detail is found in 5 CCR, §§15100-15112:

5 CCR 15100. The Superintendent of Public Instruction deems this chapter necessary for the effective administration of Education Code Sections 41376, 41478 and 41379 and for the determinations thereby required of him in computing apportionments and allowance from the State School Fund.

5 CCR 15101. This chapter applies to regular day classes in kindergarten and grades 1 through 8 maintained by a school district, except classes in:
(a) A school that is the only school maintained by a district and that has less than 101 units of average daily attendance.
(b) A "necessary small school" with less than 101 units of average daily attendance as provided in Education Code Section 41702.
(c) Grades 7 and 8 of a junior high school established and organized as a secondary school by a high school district or unified school district pursuant to Article 5 of Chapter 1 of Part 1 of the Education Code.

5 CCR 15102. For the purposes of this chapter, any class combining pupils in kindergarten or in any grade or grades 4 through 8 with one or more of grades 1, 2, or 3 shall be considered a class of grades 1, 2, and 3.

5 CCR 15103. For the purposes of administering the provisions of this chapter and the provisions of Education Code Sections 41376 and 41378, the following definitions apply:
(a) "Class" means a group of pupils scheduled to report regularly at a particular time to a particular teacher as opposed to a grade which is a broader segment of the school organization.
(1) Where the type of teaching in kindergarten and grades 1, 2, and 3 is other than in self-contained classes, the "class" is the basic homeroom where all of the following applies for a child:
(A) Attendance is recorded and investigation of absences is instigated.
(B) The child has his desk, locker, or drawer.
(C) The teacher handles the administrative routines such as keeping cumulative records, collecting basic data about the child, distributing items to go home, collecting lunch money, and distributing and collecting report cards.

Class Size Penalties
(continued)

(D) The teacher is the usual contact with the child's parents.

(E) Some planned instruction is given.

(2) For kindergarten and grades 1, 2, and 3, when it is necessary for a specific group of pupils, consisting of a portion or all of the pupils otherwise enrolled in a "class," to meet together for a particular period or periods during the regular school day for a particular phase of education for which responsibility is assigned to two or more teachers, or for an extracurricular school activity, such group shall not be considered a "class" under the provisions of this section.

(b) "Regular day class" means a class maintained during the regular school day as defined by the governing board. Classes in special day and evening and summer schools, juvenile hall schools, and classes for the physically handicapped, mentally retarded, severely mentally retarded, educationally handicapped, and mentally gifted are not regular day classes for the purposes of this section.

(c) "Active enrollment" on a day a count is taken means the pupils in enrollment in the class on the first day of the school year on which the class was in session, plus all later enrollees, minus all withdrawals since that first day. (1) For kindergarten and Grades 1, 2, and 3, a count shall be made on the last teaching day of each school month that ends prior to April 15 of the school year.

(2) For grades 4 to 8, inclusive, the count shall be made at the end of the sixth school month. A count of full-time equivalent classroom teachers shall also be made at the end of the sixth school month.

(d) The "number of pupils enrolled" in a class for kindergarten and Grades 1, 2, or 3 means the sum of the numbers determined by all the active enrollment counts made for the class pursuant to (c), divided by the number of such counts made for the class.

(e) The "average number of pupils enrolled per class" for grades 1, 2, and 3 is the number obtained by dividing the sum of the quotients derived under subsection (d) for all classes in those grades, by the number of those quotients. The "average number of pupils enrolled per class" for kindergarten is the number so obtained for all classes in kindergarten.

(f) The "total number of pupils enrolled" for grades 4 to 8, inclusive, means the active enrollment, as defined in subsection (c), in those grades at the end of the sixth school month, exclusive of the active enrollment of

Class Size Penalties
(continued)

pupils in grades 4 to 8, inclusive, in classes considered to be of grades 1, 2, or 3 under Section 15102.

(g) "Classroom teacher" means an employee of the district in a position requiring certification qualifications whose duties require him to teach in regular day classes in any grade of Grades 4 to 8, inclusive, during the regular school year.

(h) One "full-time equivalent classroom teacher" means the period of time the duties under subsection (g) are assigned a classroom teacher equal to the total number of hours designated by a governing board as a regular school day. The period of time less than the regular school day for which a classroom teacher is assigned such duties is that fraction of a full-time equivalent classroom teacher which the period of time bears to a full-time equivalent classroom teacher expressed to the nearest one-tenth (0.1).

5 CCR 15106. Written application for waiver authorized by Education Code Section 41379 shall be directed to the Bureau of School Apportionments and Reports, Department of Education. The application shall be filed by November 1.

Possible reasons for exemption are:

(a) The expense of adding a class or classes and/or the added expense of transporting kindergarten children to another school will cause the district to be unduly burdened with expense. In order to determine this the district shall include the following information:

(1) Beginning balance, exclusive of restricted funds, in the General Fund for the current fiscal year.

(2) Estimated total income in the General Fund for the current fiscal year.

(3) Estimated expenditures and the appropriation for contingencies before costs of adding classes and/or transportation to reduce kindergarten class size.

(4) Number of classes to be added and/or the number of pupils to be transported.

(5) Estimated cost of item 4.

(b) Shifting kindergarten children from one school attendance area to another school in order to balance the class size will cause a child to be traveling undue time in reaching the class to which he is reassigned. In order to determine this the district shall include the following information:

(1) List the children to be reassigned and the length of time each kindergarten child will travel in order to reach the reassigned class from his home.

Class Size Penalties
(continued)

(2) The distance between the schools by the shortest traveled route.

(3) If the reassigned children are to be transported, give the average time for the current kindergarten bus runs in the district.

(c) Requiring kindergarten children to travel from one school attendance area to another school in order to balance class size will expose a child to hazards. In order to determine exemption for this the district shall submit a description of the hazardous condition and how a kindergarten child is endangered by the condition.

5 CCR 15110. The governing board of each applicable school district shall report information in accordance with instructions provided on forms furnished and prescribed by the Superintendent of Public Instruction for making the following determinations:

(a) For kindergarten and grades 1 to 3, inclusive (the status for kindergarten to be shown separately):

(1) The number of classes.

(2) The number of pupils enrolled in each class as defined in Section 15104(d).

(3) The average number of pupils enrolled per class as defined in Section 15104(e).

(4) The total of the numbers of pupils which are in excess of the standard in each class in which the number of pupils enrolled exceeds that standard.

(b) For grades 4 to 8, inclusive:

(1) The total number of pupils enrolled.

(2) The number of full-time equivalent classroom teachers at the end of the sixth school month.

(3) The average number of pupils per each full-time equivalent classroom teacher.

Such reports shall be filed with, and at the same time as, average daily attendance reports are required to be filed under the provisions of Education Code Section 41601 for the "second period" report for the Second Principal Apportionment.

5 CCR 15111. On the report filed pursuant to Section 15110, each class in kindergarten and in grades 1, 2, and 3, maintained for a fewer number of school months than the total number of school months contained in the "second period," as defined in Education Code Section 41601, shall be separately identified. The "number of pupils enrolled" shall be separately ascertained for each class. Whenever the "number of pupils enrolled" in any class is in excess of the standards described in Section

Class Size Penalties
(continued)

41376 or 41378 the Superintendent of Public Instruction shall, for the purposes of computing the decrease of average daily attendance on account of such excess, modify the factor of 0.97 specified in Education Code Section 41376 by a factor determined by dividing the number of counts made for each class by the number of full school months during the "second period."

5 CCR 15112. For the purposes of this article, all classes shall be graded in the same manner that classes are required to be graded for the reporting of attendance for apportionment purposes and in accordance with instructions provided on attendance forms furnished by the Superintendent of Public Instruction.

Adult Education

Limited scope of this manual

Attendance accounting for adult education, including concurrent enrollment of K-12 pupils in adult education classes and the education of inmates in county jails and other correctional institutions, lies largely outside the scope of this manual (but see the Independent Study section concerning adults taking classes through that means). Those wishing more information than that found in this manual should see CDE's Adult Education Handbook:

> **§52506.** The Department of Education shall establish standards including standards of attendance, curriculum, administration, and guidance and counseling service for such classes as a basis for the several apportionments of state funds provided herein for the support of such classes. The Superintendent of Public Instruction shall prepare and distribute by April 1, 1977, and thereafter maintain, a detailed handbook for use by the local educational agencies and regional councils established pursuant to Section 8020. The handbook shall contain course approval criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

Similarities and dissimilarities to continuation education

Basic attendance accounting procedures in adult education are similar to those for continuation education, in that both require accounting by clock hour, with a maximum of 15 clock hours per week.

> **5 CCR 406.** Attendance shall be reported in clock hours for the following:
>
> * * *
>
> (b) Pupils in classes for adults wherever held pursuant to the Education Code.
>
> * * *

(See comments on hourly attendance accounting and reporting in Chapters III and V.)

Statute provides that evening programs for adults also share the flexibility with continuation education (and ROC/P's) of being allowed to credit more than one day of attendance for a student in the same calendar day:

> **§46140.** No pupil in a high school, other than a pupil enrolled in a regional occupational center or program, evening high school, continuation high school, or

Adult Education

(continued)

> continuation education class, shall be credited with more than one day of attendance in any calendar day and nothing in this article shall be construed to the contrary.
>
> **§52500.** Adult schools and evening high schools shall consist of classes for adults....

Adult education differs from continuation education, however, in that it has no provision for apportionable absences (see §46010) but *does* have a major exception to the 15-hour limit:

> **§46190.** In classes for adults, a day of attendance is 180 minutes of attendance but no pupil shall be credited with more than 15 clock hours of attendance per school week, proportionately reduced for those school weeks having weekday holidays on which classes are not held[,] unless he or she is enrolled in a class in elementary subjects, a class for which high school credit is given, a class in English for foreigners, a class in citizenship, or a class in a trade or industrial subject as trade or industrial subject is defined by the State Board of Education for grades 7 to 12, inclusive.

Adult Education also differs fundamentally in having "fixed divisors" for calculating a.d.a.:

> **§41601.**
>
> * * *
>
> (c) The days of attendance in classes for adults and regional occupational centers programs shall be reported in the same manner as all other attendance under subdivision (a). The average daily attendance in those schools and classes shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 85 in the second period by 135 and at annual time by 175.
>
> * * *

(Public) College Attendance

Part-time community college attendance

If a pupil of any age is deemed to be able to benefit from advanced scholastic or vocational work offered at a community college, that pupil may be permitted to attend community college classes on a part-time or full-time basis.

> **§48800.** The governing board of any school district may determine which students would benefit from advanced scholastic or vocational work. The intent of this section is to provide educational enrichment opportunities for a limited number of eligible pupils, rather than to reduce current course requirements of elementary and secondary schools. The governing board may authorize those students, upon recommendation of the principal of the school that the pupil attends, and with parental consent, to attend a community college as special part-time students and to undertake one or more courses of instruction offered at the community college level.
>
> The students shall receive credit for community college courses that they complete at the level determined appropriate by the school district and community college district governing boards.

A student who concurrently attends both regular school and community college must attend the minimum schoolday, unless the local school governing board permits the student to attend a lesser period of time:

> **§48801.** Any student authorized to attend a community college as a special part-time student pursuant to Sections 48800 and 76001 shall, nevertheless, be required to undertake courses of instruction of a scope and duration sufficient to satisfy the requirements of law.
>
> The student shall also be required to attend school for the minimum schoolday, except as provided for in Sections 46145 and 46147. However, the governing board of the school district may permit the student to attend school for such a lesser period of time than the minimum schoolday as the board shall find to be in the student's best interests.

Properly authorized and lawfully admitted students earn academic and apportionment credit according to:

> **§76001.** The president of any community college may admit to the community college as a special part-time

(Public) College Attendance

(continued)

student any student who is eligible to attend community college pursuant to Section 48800.

The attendance of a student at community college as a special part-time student pursuant to this section is authorized attendance, for which the community college shall be credited or reimbursed pursuant to Section 48802. Credit for courses completed shall be at the level determined to be appropriate by the school district and community college district governing boards.

For purposes of this section, a special part-time student may enroll in up to, and including, 12 units per semester, or the equivalent thereof, at the community college.

§48802. For purposes of allowances and apportionments from Section B of the State School Fund, a community college shall be credited with additional units of average daily attendance attributable to the attendance of pupils at the community colleges as special part-time students pursuant to this article.

A school district whose pupils attend a community college as special part-time students pursuant to this article shall, for purposes of allowances and apportionments from Section A of the State School Fund, continue to receive credit for attendance by those pupils computed in the manner prescribed by law, and a pupil's attendance at school for the minimum schoolday shall be deemed a day of attendance for purposes of making the computation.

For apportionment purposes, time requirements for pupils who attend classes at a community college--and those grade 11 or 12 pupils enrolled part-time in California State University or University of California classes--are given in:

§46146. (a) A day of attendance in grades 11 and 12 is 180 minutes of attendance if the pupil is enrolled part-time in classes of the California State University or the University of California for which academic credit will be provided upon satisfactory completion of enrolled courses.

(b) A day of attendance for any pupil who is a special part-time student enrolled in a community college under Article 1 (commencing with Section 48800) of Chapter 5 of Part 27 is 180 minutes of attendance for which academic credit will be provided upon satisfactory completion of enrolled courses.

(c) Notwithstanding any other provisions of law, the 180-minute minimum school day permitted by this

(Public) College Attendance
(continued)

> section shall, for the purposes of average daily attendance, be computed and reported as attendance for three-quarters of the full 240-minute minimum school day prescribed by Section 46141.

Note that attendance for pupils permitted to attend school for less than the minimum school day pursuant to §48801 (preceding) must be reported by clock hour.

> **5 CCR 406.** Attendance shall be reported in clock hours for the following:
>
> * * *
>
> (a) Pupils enrolled for less than the minimum school day.
>
> * * *

(See comments on hourly attendance accounting and reporting in Chapters III and V.)

Full-time community college attendance

Properly authorized full-time attendance at community college exempts a pupil from compulsory attendance in regular schools, and the community college is credited with additional units of a.d.a. for that pupil:

> **§48800.5** (a) A parent or guardian of any pupil, regardless of the pupil's age or class level, may petition the governing board of the school district in which the pupil is enrolled to authorize the attendance of the pupil at a community college as a special full-time student on the ground that the pupil would benefit from advanced scholastic or vocational work that would thereby be available. If the governing board denies the petition, the pupil's parent or guardian may file an appeal with the county board of education, which shall render a final decision on the petition.
>
> Any pupil who attends a community college as a special full-time student pursuant to this section is exempt from compulsory attendance under Chapter 2 (commencing with Section 46100 of Part 26).
>
> (b) A parent or guardian of a pupil who is not enrolled in a public school may directly petition the president of any community college to authorize the attendance of the pupil at the community college as a special part-time or full-time student on the ground that the pupil would benefit from advanced scholastic or vocational work that would thereby be available.
>
> (c) Any pupil authorized to attend a community college as a special full-time student shall, nevertheless, be required to undertake courses of instruction of a scope

(Public) College Attendance
(continued)

and duration sufficient to satisfy the requirements of law.

(d) For purposes of allowances and apportionments from the State School Fund, a community college shall be credited with additional units of average daily attendance attributable to the attendance of special full-time students at the community college.

§76001.5. The president of any community college may admit to the community college as a special full-time student any student who is eligible to attend community college pursuant to Section 48800.5, and who, in the opinion of the college president, could benefit from the course or class.

The attendance of a student at community college as a special full-time student pursuant to this section is authorized attendance, for which the community college shall be credited pursuant to Section 48800.5.

Continuation Education

District obligations

A district is obliged to provide continuation education as needed:

> **§48401.** The complaint of any citizen of a school district that such school district has failed to meet the requirements of providing continuation education classes pursuant to this chapter shall be presented to the county superintendent of the county in which such district is located. If, upon investigation, the county superintendent of schools finds the complaint to be justified, he shall forward the complaint along with the results of his investigation to the Superintendent of Public Instruction who shall take steps to enforce compliance with the provisions of this chapter.

For schools with fewer than 100 students enrolled in grade 12, the governing board of the school district may apply to exempt itself from providing continuation education. Such an exemption is also possible, with certain restrictions, for schools with more than 100 pupils in grade 12 if the school has entered into an agreement with another district to provide continuation education:

> **§48432.** The governing board of each high school district and each unified school district shall establish and maintain within its boundaries special continuation education classes and may establish and maintain regional occupational centers or programs, in accordance with the provisions of Section 52301, whenever there are any minors residing within the district who are subject to compulsory continuation education; provided, that if there are fewer than 100 students enrolled in grade 12 in any school of the district maintaining that grade, the governing board of the district may apply to the State Department of Education for exemption of that school from the requirements of this section and such exemption may be granted in accordance with rules and regulations that shall be adopted by the State Board of Education to govern the granting of the exemptions. An exemption may also be granted to schools having an enrollment of more than 100 pupils in grade 12 if the district seeking the exemption has entered into an agreement with another high school district or unified school district to maintain special continuation education classes for minors residing in either of the districts, but shall not be granted if the agreement would make it necessary for such minors to travel an excessive distance from their homes to the continuation education classes.

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(continued)

> If there is a regional occupational center or program as provided in Article I (commencing with Section 52300) of Chapter 9 of Part 28, of this division within a county, the governing board of any school district within that county may enroll minors, otherwise subject to, and in lieu of, continuation education, in the center or program in accordance with the provisions of Section 52314.
>
> Any minor admitted to a regional occupational center or program under the provisions of Section 52314.5 shall be considered to have enrolled in the regional occupational center or program in lieu of continuation education classes. Nothing in this section shall prohibit a minor from enrolling in a program of continuation education or a regular high school program if the minor voluntarily chooses to enroll in the program.

In certain counties, the establishment of an opportunity school by the county office of education fulfills the obligation to provide continuation education:

> **§48641.** An opportunity school established by a county board of education in a county which has an average daily attendance of less than 8,000 shall be deemed to be in lieu of any continuation education program, and shall excuse the school districts within the county from complying with otherwise applicable statute requiring the establishment of continuation education schools.
>
> (See "Opportunity Education," following.)

Day of attendance and weekly maximum credit

For apportionment purposes a day of attendance in continuation education is 180 minutes, but there is also an upper limit to the amount of apportionable attendance that a district can claim per pupil per week:

> **§46170.** In continuation high schools and continuation education classes, a day of attendance is 180 minutes of attendance but no pupil shall be credited with more than 15 hours of attendance per school week, proportionately reduced for those school weeks having weekday holidays on which classes are not held.

Within the weekly limit, however, a continuation pupil may be credited with more than one day of attendance in a given calendar day:

> **§46140.** No pupil in a high school, other than a pupil enrolled in a regional occupational center or program, evening high school continuation high school, or

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(continued)

> continuation education class, shall be credited with more than one day of attendance in any calendar day and nothing in this article shall be construed to the contrary.

The flexibility afforded by these provisions allows a pupil's continuation schedule to include, for example, six hours each on Monday and Tuesday, three hours on Wednesday, and none on Thursday or Friday, with the resulting total of 15 hours in the week being apportionable as five three-hour "days" of continuation attendance.

Because 15 hours of attendance per week is the maximum amount of attendance with which a continuation pupil may be credited, it is *not* permissible for a pupil to "bank" credit for surplus hours of attendance and carry it forward beyond the week in which it was generated. If a pupil generates *less* than the maximum 15 hours of credit permissible within a full week, however, it then becomes permissible to credit a corresponding number of surplus hours generated in a succeeding week, so that on average the pupil will have generated "15 hours *per* week" since the pupil's first day of enrollment in the term. In other words, it is *not* permissible for a continuation pupil to "get ahead" in attendance, but it *is* permissible for the pupil to "catch up" to the permitted average. (Note that the monthly reports should clearly link preceding "short" weeks to weeks in which more than 15 hours are correspondingly credited.)

Excused absences

Verified absences in continuation education are creditable for apportionments as set out in §46010, but there are necessary limitations on the way credit may be claimed. Because of the calculational flexibility of the continuation week and day, the amount of apportionment creditable for an absence is not fixed, depending instead on the pupil's scheduled attendance for that day. In the case of the pupil scheduled to attend six hours each Monday and Tuesday, Wednesday three hours, and none on Thursday and Friday, an excused absence on Monday could be credited as two "days" of attendance, whereas an absence on Wednesday would be credited for only one "day."

In the case of a pupil who has been 'overscheduled'--for example, who is scheduled for six hours a day on every day of the week--one day's absence may not be credited for more than the proportional three hours that the day's attendance would have contributed toward his/her 15-hour-per-week total.

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When attendance in adult education classes and/or regional occupational centers or programs is used to satisfy compulsory continuation attendance requirements (§48410(d) and (f)--see following), excused absence credit is not allowed by statute. Section 46010 specifically disallows apportionment-excused absences in ROC/P's (except for pupils who are *also* enrolled in regular high school) and in adult education.

Recording and reporting attendance

Continuation education attendance must be reported by clock hour:

> **5 CCR 406.** Attendance shall be reported in clock hours for the following:
>
> * * *
>
> (d) Pupils enrolled in continuation education schools and classes.
>
> * * *

(See comments on hourly attendance accounting and reporting in Chapters III and V.)

As in regular departmentalized settings, actual passing time (not to exceed 10 minutes) between classes within a continuation program has been deemed to be instructional time (see "Instructional Time Requirements," in Chapter III).

Compulsory attendance implications

As noted in the Compulsory Attendance section, 16- and 17-year-old pupils must attend compulsory continuation education classes unless they are exempted (the majority of pupils being in fact exempt through attendance upon regular high school classes):

> **§48400.** All persons 16 years of age or older, and under 18 years of age, not otherwise exempted by this chapter, shall attend upon special continuation education classes maintained by the governing board of the high school district in which they reside, or by the governing board of a neighboring high school district, for not less than four 60-minute hours per week for the regularly established school term. Such minimum attendance requirement of four 60-minute hours per week may be satisfied by any combination of attendance upon special continuation education classes and regional occupational centers or programs.

This minimum four hours of continuation education per week applies only to pupils who can satisfactorily prove they are regularly employed; otherwise the requirement is 15 hours per week:

> **§48402.** Whenever a minor subject to the provisions of this chapter, who is not otherwise exempted by this chapter, cannot give satisfactory proof of regular employment he shall attend, for not less than 15 hours per week, special continuation education classes during the period of unemployment. The minimum attendance requirement of 15 hours per week may be satisfied by any combination of attendance upon special continuation education classes and regional occupational centers or programs.

Exemptions

Pupils are exempt from continuation education if they:

- have completed high school
- are attending a full-time public or (properly certified) private school (or part-time classes deemed satisfactory by public school officials)
- have physical or mental conditions that make attendance in the continuation setting inadvisable (but see laws regarding special education) or must regularly give care to dependents during school hours
- are attending a regional occupational program or center after having been out of school for three or more months
- have passed the California High School Proficiency Examination and presented parental permission to leave school
- are regularly employed and attending adult education classes for at least four hours per week
- are moving into a school district from out of state within 10 school days of the end of the term
- are on a properly documented leave of absence
- are permitted to attend community college full time

> **§48410.** There are exempted from compulsory attendance in continuation education classes as otherwise required by Sections 48400 and 48402, persons who:
>
> (a) Have been graduated from a high school maintaining a four-year course above the eighth grade of the elementary schools, or who have had an equal amount of education in a private school or by private tuition.
>
> (b) Are in attendance upon a public or private full-time day school, or satisfactory part-time classes maintained by other agencies.
>
> (c) Are disqualified for attendance upon these classes because of their physical or mental condition, or because

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> of personal services that must be rendered to their dependents.
>
> (d) Are satisfactorily attending a regional occupational program or center as provided in Section 48432.
>
> (e) Have successfully demonstrated proficiency equal to or greater than standards as established by the Department of Education pursuant to Section 48412, and have verified approval submitted by their parent or guardian.
>
> (f) Are subject to Section 48400 but not Section 48402 and are in attendance upon classes for adults for not less than four clock hours per calendar week.
>
> (g) Are exempt from compulsory school attendance under Section 48231.
>
> **§48231.** Notwithstanding Section 48201, pupils between 12 and 18 years of age who enter an attendance area from another state within 10 schooldays before the end of the school term during which such entrance occurs are exempt for the remainder of the school term.

The conditions of certain exemptions from compulsory continuation education are generally analogous to those for similar exemptions from compulsory regular attendance, including:

> **§48415.** In the case of attendance upon private school, exemption from the requirements of attendance upon compulsory continuation education shall be valid only after verification by the attendance supervisor of the district, or other person designated by the board of education, that the private school has complied with the provisions of Section 33190 requiring the annual filing by the owner or other head of a private school of an affidavit or statement of prescribed information with the Superintendent of Public Instruction. The verification required by this section shall *not* be construed as an evaluation, recognition, *approval*, or endorsement of any private school or course. (emphasis added)
>
> **§48416.** Notwithstanding any other provision of law, a child who, at the time a leave of absence is to begin, will be between the ages of 16 and 18, inclusive, may take a leave of absence from compulsory continuation education classes or, if exempted pursuant to subdivision (b) of Section 48410, from the school that the child attends, for a period of up to two semesters, if all the following conditions are satisfied:

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(a) The school district governing board adopts a written policy to allow student leaves of absence consistent with this section.

(b) The purpose of the leave is supervised travel, study, training, or work not available to the student under another education option.

(c) A written agreement is entered into that is signed by the child, the child's parent or guardian, the principal or administrative officer of the school that the child would otherwise attend, a classroom teacher familiar with the child's academic progress selected by the child, and the district supervisor of child welfare and attendance, and that provides for all of the following:

(1) The purpose of the leave.

(2) The length of time the child will be on leave.

(3) A meeting between or contact with the child and a school official designated in the agreement at least once a month while the child is on leave.

(4) A statement incorporating the provisions contained in subdivision (b).

(d) The child shall be entitled to return to school at any time. No child who takes a leave of absence shall be penalized from completing his or her academic requirements within a time period equal to that of classmates who did not take a leave of absence, plus a period of time equal to the leave of absence. However, when a child reenrolls at any time other than the beginning of a semester, the school shall not be required to give makeup sessions during that semester for the classes that the child has missed.

(e) A leave of absence may be extended for an additional semester upon approval by all parties to the written agreement and the local school attendance review board.

(f) No leave of absence may be taken that would continue past the end of the school year in which the leave is taken.

(g) If the student does not contact the designated school official as stipulated in the written agreement, the leave of absence shall be nullified.

Any party to the written agreement may nullify the written agreement for cause at any time.

(h) No more than 1 percent of the students enrolled and in attendance at each school shall be permitted to take a leave of absence during each academic year.

A pupil attending a regional occupational center or program exclusively in lieu of continuation education must be offered sufficient hours of instruction according to:

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(continued)

§48432.

* * *

Any minor admitted to a regional occupational center or program under the provisions of Section 52314.5 shall be considered to have enrolled in the regional occupational center or program in lieu of continuation education classes.

* * *

§52314.5. A regional occupational center or program established and maintained by a county superintendent of schools, school districts, or joint power agencies pursuant to Section 52301 shall admit youths between the ages of 16 to 18 years who are eligible to attend a high school in a school district, but who have not been enrolled on a full-time or part-time basis for a period of more than three months during the regular school year, on the same basis as, and applying the same criteria for admission as would be applied to, any pupil enrolled in a high school in a school district who is eligible to attend the regional occupational center or program.

It is the intent of the Legislature that pupils admitted to a regional occupational center or program under this section shall be encouraged to return to high school in order to acquire the knowledge and skills necessary to prepare them for adult life.

§48433. Special continuation education classes or classes conducted by a regional occupational center or any combination thereof shall provide at least four 60 minute hours of instruction per week for each minor within the high school district who is subject to compulsory continuation education.

The proficiency examination exemption is detailed in:

§48412. (a) Any person 16 years of age or older, or who has been enrolled in the 10th grade for one academic year or longer, or who will complete one academic year of enrollment in the 10th grade at the end of the semester during which the next regular examination will be conducted, shall be permitted to have his or her proficiency in basic skills taught in public high schools verified according to criteria established by the State Department of Education.

The State Board of Education shall award a "certificate of proficiency" to persons who demonstrate that proficiency. The certificate of proficiency shall be equivalent to a high school diploma, and the State

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(continued)

Department of Education shall keep a permanent record of the issuance of all the certificates.

(b) The State Department of Education shall develop standards of competency in basic skills taught in public high schools and shall provide for the administration of examinations prepared by or with the approval of the department to verify such competency. Regular examinations shall be held once in the fall semester and once in the spring of every academic year on a date, as determined by the State Department of Education, which will enable notification of examinees and the schools they attend, if any, of the results thereof not later than two weeks prior to the date on which that semester ends in a majority of school districts which maintain high schools.

In addition to regular examinations, the State Department of Education may, at the discretion of the Superintendent of Public Instruction, conduct examinations for all eligible persons once during each summer recess and may conduct examinations at such other times as the superintendent deems necessary to accommodate eligible persons whose religious convictions or physical handicaps prevent their attending one of the regular examinations.

(c) The State Department of Education may charge a fee for each examination application in an amount sufficient to recover the costs of administering the requirements of this section; provided, however, that the fee shall not exceed twenty dollars ($20) per examination application. All fees levied and collected pursuant to this section shall be deposited in the State Treasury for remittance to the current support appropriation of the State Department of Education as reimbursement for costs of administering this section. Any reimbursements collected in excess of actual costs of administration of this section shall be transferred to the unappropriated surplus of the General Fund by order of the Director of Finance.

(d) The State Board of Education shall adopt rules and regulations as are necessary for implementation of the provisions of this section.

Pupils who have become exempt through passing the proficiency examination pursuant to §48410(e) are subsequently eligible for reenrollment in their districts of residence once without restriction:

§48414. Any person 16 or 17 years of age exempt from compulsory continuation attendance laws by subdivision

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(e) of Section 48410 who has terminated his enrollment on the basis of such exemption shall be permitted by the governing board of the school district in which he resides to reenroll in the district, without prejudice, as if he had never taken advantage of subdivision (e) of Section 48410. If such person subsequently again terminates enrollment on the basis of such exemption, the district may deny him reenrollment until the beginning of the next semester in the district's academic year.

Pupils who have not been referred to continuation by school authorities have the right to enroll in continuation education on their own, to the extent that space permits:

> **§48413.** Persons 16 years of age or older and under 18 years of age who have not been graduated from high school shall be permitted by the governing board to enroll in continuation classes conducted by the school district pursuant to Article 3 (commencing with Section 48430) of this chapter if such enrollment does not preclude attainment of the goals of continuation education schools and classes prescribed in Article 3 (commencing with Section 48430) of this chapter [including smaller class sizes than regular high school], as determined by the governing board. The provisions of Article 5 (commencing with Section 48260) of Chapter 2 of this part shall be applicable to such persons.

Truancy

Truancy from compulsory continuation attendance shares characteristics with truancy under the age 6-16 compulsory attendance law, with the parent/guardian having responsibility for ensuring the pupil's continuation attendance:

> **§48450.** Each parent, guardian, or other person having control or charge of any minor required to attend special continuation education classes, shall compel the attendance of the minor upon the classes. He shall retain a copy of the permit to work and shall present it upon request of any officer of the law, or other person authorized to enforce the provisions of this chapter.

> **§48451.** The governing board of any high school district in which a minor resides who violates the provisions of this chapter shall, on the complaint of any person, make full and impartial investigation of all charges against any parent, guardian, or other person having control or charge of the minor for violation of the provisions of Section 48450.

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§48452. If it appears upon the investigation that any parent, guardian, or other person having control or charge of the minor has violated the provisions of Section 48450, the clerk of the board, or other person authorized by the board to bring such actions, shall make and file in the proper court a criminal complaint against the parent, guardian, or other person having control or charge of the minor, charging the violation, and shall see that the charge is prosecuted by the proper authorities.

§48453. In cities, and in cities and counties, and in school districts having an attendance supervisor, the attendance supervisor shall make and file the complaint provided for in this article, and shall see that the charge is prosecuted by the proper authorities

§48454. Any parent, guardian, or other person having control or charge of any minor subject to this chapter who fails to perform any of the duties imposed upon him by the provisions of Section 48450 is guilty of a misdemeanor, and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than fifty dollars ($50) or by imprisonment in the county jail for a period of not more than five days.

(2) Upon a second or subsequent conviction, by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500), by imprisonment in the county jail for a period of not less than five days or more than 25 days, or by both such fine and imprisonment.

§48403. If any person subject to the provisions of this chapter is an habitual truant or is irregular in attendance as required by this chapter or is habitually insubordinate or disorderly during attendance at school, the county superintendent of schools may request a petition on his behalf in the juvenile court of the county.

Involuntary and voluntary transfer

For pupils who do not consent to the assignment to continuation education, the following transfer statute applies:

§48432.5. The governing board of each high school or unified school district which assigns pupils to continuation schools shall adopt rules and regulations governing procedures for the involuntary transfer of pupils to continuation schools.

Such rules and regulations shall provide that written notice be given to the pupil and the pupil's parent or

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guardian informing them of the opportunity to request a meeting with a designee of the district superintendent prior to the transfer.

At the meeting, the pupil or the pupil's parent or guardian shall be informed of the specific facts and reasons for the proposed transfer and shall have the opportunity to inspect all documents relied upon, question any evidence and witnesses presented and present evidence on the pupil's behalf. The pupil may designate one or more representatives and witnesses to be present with him or her at the meeting. A decision to transfer the pupil involuntarily shall be based on a finding that the pupil (a) committed an act enumerated in Section 48900, or (b) has been habitually truant or irregular in attendance from instruction upon which he or she is lawfully required to attend.

The decision to transfer shall be in writing, stating the facts and reasons for the decision, and sent to the pupil and the pupil's parent or guardian. It shall indicate whether the decision is subject to periodic review and the procedure therefor.

None of the persons involved in the final decision to make an involuntary transfer of a pupil to a continuation school shall be a member of the staff of the school in which the pupil is enrolled at the time that the decision is made.

A pupil, with the concurrence of a designee of the district superintendent, may transfer voluntarily to a continuation school in order to receive special attention such as individualized instruction.

Involuntary transfer to a continuation school shall be imposed only when other means fail to bring about pupil improvement; provided that a pupil may be involuntarily transferred the first time he or she commits an act enumerated in Section 48900 if the principal determines that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process.

No involuntary transfer to a continuation school shall extend beyond the end of the semester following the semester during which the acts leading directly to the involuntary transfer occurred unless the local governing board adopts a procedure for yearly review of the involuntary transfer conducted pursuant to this section at the request of the pupil or the pupil's parent or guardian.

A pupil who has voluntarily transferred to a continuation school shall have the right to return to the regular high school at the beginning of the following

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school year and, with the consent of a designee of the district superintendent, may return at any time.

County Community Schools

Authorization

"County community schools" are established only by county offices of education:

> **§1982.** (a) County community schools shall be administered by the county superintendent of schools.
>
> For purposes of making apportionments from the State School Fund and the levying of local taxes, any attendance generated by students in county community schools pursuant to subdivisions (a) and (b) and (d) of Section 1981 shall be credited to the district of residence. School districts shall pay to the county for the purposes of the community schools the entire revenue limit for each average daily attendance credited pursuant to this section. No funds generated by such average daily attendance shall be retained by the district of residence. The county superintendent of schools may use funds derived from existing tax revenues to provide additional funding per student enrolled in county community schools but not to exceed the difference between the amount derived per student from the district and the amount available per student enrolled in juvenile court schools.
>
> (b) For the purposes of making apportionments from the State School Fund, pupils enrolled in county community schools pursuant to subdivision (c) of Section 1981 shall be deemed to be enrolled in a county juvenile hall or camp.
>
> (c) For the purposes of this section, the county superintendent of schools providing educational services to homeless children shall be deemed to be the district of residence of those children.

Categories of pupils served

Enrollment in county community schools is limited to specified categories of pupils:

> **§1981.** The county board of education may enroll in community schools any of the following:
>
> (a) Pupils who have been expelled from a school while attending either continuing [sic] classes, opportunity classes, or alternative classes.
>
> (b) Pupils who have been referred to county community schools by a school district as a result of the recommendation by a school attendance review board.
>
> (c) Pupils who are probation-referred pursuant to Sections 300, 601, 602, and 654 of the Welfare and Institutions Code, or who are on probation or parole and who are not in attendance in any school.
>
> (d) Homeless children.

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(continued)

§1981.2. For purposes of this chapter, the term "homeless children" means either of the following:
(a) A schoolage child who lacks a fixed, regular, and adequate nighttime residence.
(b) A schoolage child who has a primary nighttime residence that is any of the following:
(1) A supervised publicly or privately operated shelter designed to provide temporary living accommodations.
(2) An institution that provides a temporary residence for individuals intended to be institutionalized.
(3) A temporary, makeshift arrangement in the accommodations of other persons.
(4) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

County superintendents incur certain reporting and verification obligations when providing educational services to homeless children, and the following financial considerations apply:

§2558.2. (a) The Superintendent of Public Instruction shall use the revenue limit per unit of average daily attendance of the largest unified school district in the county to determine the revenue limits per unit of average daily attendance for county superintendents who provide education for homeless children pursuant to subdivision (c) of Section 1982.
(b) The county superintendent shall certify to the Superintendent of Public Instruction that no school district in the county is also claiming average daily attendance for those pupils.
(c) State apportionments to county superintendents for the provision of education services to homeless children shall be restricted to expenditure on education services to homeless children and county administrative expenses related thereto.

Attendance accounting and a.d.a. calculation

There are no specific regulations or statutory provisions concerning attendance accounting in county community schools; they are accordingly subject to the same requirements as regular classes of the same grade level.

The "fixed divisors" for computing period and annual a.d.a. in county community schools are found in:

§41601.

* * *

County Community Schools
(continued)

(b) The attendance for schools and classes maintained by the county superintendent of schools and the county school tuition fund shall be reported in the same manner as reported by school districts. The average daily attendance of the school shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175....

* * *

Home/Hospital Instruction

Eligibility and apportionment credit

Temporarily disabled pupils are entitled to instruction in their homes or in hospitals:

> **§48206.3.** (a) Except for those pupils receiving individual instruction provided pursuant to Section 48206.5, a pupil with a temporary disability which makes attendance in the regular day classes or alternative education program in which the pupil is enrolled impossible or inadvisable shall receive individual instruction provided by the district in which the pupil is deemed to reside.
>
> (b) For purposes of this section and Sections 48206.5, 48207 and 48208, the following terms have the following meanings:
>
> (1) "individual instruction" means instruction provided to an individual pupil in a hospital or other residential health facility, excluding state hospitals, the pupil's home, or under other circumstances prescribed by regulations adopted for that purpose by the State Board of Education.
>
> (2) "Temporary disability" means a physical, mental, or emotional disability incurred while a pupil is enrolled in regular day classes or an alternative education program, and after which the pupil can reasonably be expected to return to regular day classes or the alternative education program without special intervention. A temporary disability shall not include a disability for which a pupil is identified as an individual with exceptional needs pursuant to Section 56026.
>
> (c)(1) For purposes of computing average daily attendance pursuant to Section 42238.5, each clock hour of teaching time devoted to individual instruction shall count as one day of attendance.
>
> (2) No pupil shall be credited with more than five days of attendance per calendar week, or more than the total number of calendar days that regular classes are maintained by the district in any fiscal year.
>
> (d) Notice of the availability of individualized [sic] instruction shall be given pursuant to Section 48980.
>
> **§48206.5.** Any school district which, prior to January 1, 1986, maintained a program to provide individual instruction to pupils enrolled in regular day classes or an alternative education program offered by the district who have a temporary disability may continue the program as it existed prior to January 1, 1986.

Note that attendance accounting is by clock hour, and each hour of individual instruction counts as a day of attendance

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(continued)

for apportionment purposes. A pupil receiving individual instruction may not, however, earn more days of attendance in a calendar week than there are school days in that week.

Interdistrict home/hospital instruction

When a pupil is hospitalized for a temporary disability in another district, the pupil becomes (for compulsory attendance purposes) a resident of that district:

> **§48207.** Notwithstanding Section 48200, a pupil with a temporary disability who is in a hospital or other residential health facility, excluding a state hospital, which is located outside of the school district in which the pupil's parent or guardian resides shall be deemed to have complied with the residency requirements for school attendance in the school district in which the hospital is located.

The hospitalized pupil's parent/guardian is responsible for notifying the school district in which the pupil now "resides," at which point that school district incurs specific obligations:

> **§48208.** (a) It shall be the responsibility of the parent or guardian of a pupil with a temporary disability to notify the school district in which the pupil is deemed to reside pursuant to Section 48207 of the pupil's presence in a qualifying hospital.
>
> (b) Upon receipt of notification pursuant to subdivision (a), a school district shall do all of the following:
>
> (1) Within five working days of receipt of the notification, determine whether the pupil will be able to receive individualized instruction, and if the determination is positive, when the individualized instruction may commence. Individualized instruction shall commence no later than five working days after the positive determination has been rendered.
>
> (2) Provide the pupil with individualized instruction pursuant to Section 48206.3. The school district may enter into an agreement with the school district in which the pupil previously attended regular day classes or an alternative education program, to have the school district the pupil previously attended provide the pupil with individualized instruction pursuant to Section 48206.3.
>
> (3) Within five working days of the commencement of individualized instruction, provide the school district in which the pupil previously attended regular day classes or an alternative education program with written notice that the pupil shall not be counted by that district for

Home/Hospital Instruction
(continued)

purposes of computing average daily attendance pursuant to Section 42238.5, effective the date on which individualized instruction commenced.

Independent Study

Examples and limitations

The current statutory basis for independent study begins with:

> **§51745.** (a) Commencing with the 1990-91 school year, the governing board of a school district or a county office of education may offer independent study to meet the educational needs of pupils in accordance with the requirements of this article. Educational opportunities offered through independent study may include, but shall not be limited to, the following:
>
> (1) Special assignments extending the content of regular courses of instruction.
>
> (2) Individualized study in a particular area of interest or in a subject not currently available in the regular school curriculum.
>
> (3) Individualized alternative education designed to teach the knowledge and skills of the core curriculum. Independent study shall not be provided as an alternative curriculum.
>
> (4) Continuing and special study during travel.
>
> (5) Volunteer community service activities that support and strengthen pupil achievement.
>
> (b) Not more than 10 percent of the pupils participating in an opportunity school or program, or a continuation high school, calculated as specified by the State Department of Education, shall be eligible for apportionment credit for independent study pursuant to this article.
>
> (c) No individual with exceptional needs, as defined in Section 56026, may participate in independent study, unless his or her individualized education program developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30 specifically provides for that participation.
>
> (d) No temporarily disabled pupil may receive individual instruction pursuant to Section 48206.3 through independent study.
>
> (e) No course among the courses required for high school graduation under Section 51225.3 shall be offered exclusively through independent study.

As shown by §51745(b), (c), and (d), the law limits the number and types of pupils who can be served through independent study. Subsection (e) confirms its essentially voluntary nature: no course required for high school graduation can be available only through independent study. Regarding §51745(d), it is important to note that temporarily disabled pupils may receive instruction via independent study--but only as an optional alternative to

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"home/hospital" individual instruction and only under the apportionment rules for independent study, *not* the rules for "home/hospital."

Apportionment credit

A school district or county office of education may earn apportionments by instructing students through independent study:

> **§46300.**
>
> * * *
>
> (e) In computing the average daily attendance of a school district, there shall also be included the attendance of pupils participating in an independent study program conducted pursuant to Article 5.5 (commencing with Section 51745 of Chapter 5 of Part 28.
>
> A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day.
>
> * * *

For apportionment purposes, the key difference between independent study and all other forms of instruction is that the pupil is being educated under the *general* rather than immediate supervision of a certificated school district employee:

> **§51745.5.** The independent study of each pupil 18 years of age or less shall be coordinated, evaluated, and, notwithstanding subdivision (a) of Section 46300, under the general supervision of an employee of the school district or county office of education who possesses a valid certification document pursuant to Section 44685, registered as required by law.

All independent study administrators should consult the independent study manual developed in cooperation with and approved by CDE; recent CDE advisories will also provide the most up-to-date information.

Enrollment requirements

To earn apportionment credit, independent study pupils must be enrolled in a specified school and program, not simply in "independent study":

> **§51748.** School districts and county offices of education shall not be eligible to receive apportionment for independent study attendance by any pupil who is not *otherwise* identified in the written records of the district or county board by grade level, program

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(continued)

> placement, and the school in which he or she is enrolled. (emphasis added)

Because §51748 allows apportionments for independent study pupils only when they are formally enrolled in a grade level and school, a district may not use independent study to claim apportionment for a pupil it has expelled--at least for the duration of the expulsion. Furthermore, the expelled pupil cannot participate in independent study in another district unless that district is willing to permit the student to attend school regularly (according to 5 CCR 11700(h), following, independent study must be an "uncoerced option that is an alternative to regular school attendance"). Similarly, suspended pupils do not have the option of regular attendance available to them, and hence cannot participate in independent study.

Numerical restrictions on enrollment

The amount of average daily attendance credit that a district can earn via independent study for opportunity and continuation pupils is restricted: "Not more than 10 percent of the pupils participating in an opportunity school or program, or a continuation high school,...shall be eligible for apportionment credit for independent study pursuant to this article" (§51745(b)).

The amount of a.d.a. credit a district can earn through full-time independent study relative to the amount of a.d.a. it earns through conventional instruction is also limited. The district or county office must calculate the ratio of full-time independent study pupils to certificated employees responsible for independent study and verify that this ratio does not exceed the equivalent ratio for other programs in the district:

> **§51745.6.** [intended to be §51747.6, but numbered erroneously in Chapter 1263, Statutes of 1990] (a) The ratio of average daily attendance by independent study pupils 18 years of age or less to school district full-time equivalent certificated employees responsible for independent study, calculated as specified by the State Department of Education, shall not exceed the equivalent ratio for all other education programs operated by the school district. The ratio of average daily attendance by independent study pupils 18 years of age or less to county office of education full-time equivalent certificated employees responsible for independent study, to be calculated in a manner prescribed by the State Department of Education, shall not exceed the equivalent ratio for all other educational

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(continued)

programs operated by the high school or unified school district with the largest average daily attendance of pupils in that county. The computation of those ratios shall be performed annually by the reporting agency at the time of, and in connection with, the second principal apportionment report to the Superintendent of Public Instruction.

(b) Only those units of average daily attendance for independent study that reflect a pupil-teacher ratio that does not exceed the ratio described in subdivision (a) shall be eligible for apportionment pursuant to Section 42238.5, for school districts and Section 2558, for county offices of education. Nothing in this subdivision shall prevent a school district or county office of education from serving additional units of average daily attendance greater than the ratio described in subdivision (a), except that those additional units shall not be funded pursuant to Section 42238.5 or Section 2558.

(c) The calculations performed for purposes of this section shall not include either of the following:

(1) The average daily attendance generated by special education pupils enrolled in special day classes on a full-time basis, or the teachers of those classes.

(2) The average daily attendance or teachers in necessary small schools that are eligible to receive funding pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24.

For details of appropriate calculational methods, including ways to count part-time staff, consult the relevant CDE independent study advisory.

Required written policies and practices

Independent study does not earn apportionment credit unless it is properly constituted and documented:

§51747. A school district or county office of education shall not be eligible to receive apportionments for independent study by pupils, regardless of age, unless it has adopted written policies, pursuant to rules and regulations adopted by the Superintendent of Public Instruction, which include, but are not limited to, each of the following:

(a) The maximum length of time, by grade level and type of program, which may elapse between the time an independent study assignment is made and the date by which the pupil must complete the assigned work.

(b) The number of missed assignments which will be allowed before an evaluation is conducted to determine

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(continued)

whether it is in the best interests of the pupil to remain in independent study, or whether he or she should return to the regular school program. A written record of the findings of any evaluation made pursuant to this subdivision shall be maintained in the pupil's permanent record.

(c) A requirement that a current written agreement for each independent study pupil shall be maintained on file including, but not limited to, all of the following:

(1) The manner, time, frequency, and place for submitting a pupil's assignments and for reporting his or her progress.

(2) The method utilized to evaluate the pupil's work.

(3) The specific resources, including materials and personnel, which will be made available to the pupil.

(4) A statement of the policies adopted pursuant to subdivisions (a) and (b) regarding the maximum length of time allowed between the assignment and the completion of a pupil's assigned work, and the number of missed assignments which will require an evaluation of whether or not the pupil should be allowed to continue in independent study.

(5) The duration of the independent study agreement. No independent study agreement shall be valid for any period longer than one semester or one-half-year for a school on a year-round calendar.

(6) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.

(7) The inclusion of a statement in each independent study agreement that independent study is an optional educational alternative in which no pupil may be required to participate.

(8) Each written agreement shall be signed by the pupil, the pupil's parent or guardian if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who have direct responsibility for providing assistance to the pupil.

5 CCR 11700. (a) "Independent Study" means an alternative to classroom instruction consistent with the district's course of study.

(b) "Type of program" means the "educational opportunities" as set out in Education Code Section 51745(a).

(c) "Missed assignment" means any specified independent study assignment that has not been turned in, or evidenced as completed, by a pupil by the due date for the assignment.

(d) "Regular school program" means the classroom-based instructional program or its equivalent in which a pupil would have attended had the pupil not elected the independent study.

(e) "The method utilized to evaluate" means any method by which the supervising teacher assesses the extent to which achievement of the pupil meets the goals and objectives specified in the written agreement.

(f) "Supervising teacher" means the employee of the school district or county office of education who possesses a valid certification document and who has been assigned, in the written agreement, the responsibility for coordinating, evaluating and providing general supervision of a pupil's independent study pursuant to Education Code Section 51747.

(g) "Specific resources" may not be construed to exclude resources normally available to all pupils on the same terms and that they are normally available to all pupils, and shall be construed to include resources needed to achieve the objectives in the written agreement.

(h) "An optional educational alternative" means an uncoerced option that is an alternative to regular school attendance.

(i) "General supervision" means the supervising teacher's 1) continuing oversight of the study design, implementation plan, allocation of resources, and evaluation of pupil progress for any pupil's independent study; and 2) review, on at least a monthly sampling basis, of determinations of the time values for apportionment purposes of each pupil's completed assignments.

(j) "Full-time equivalent certificated employees" means any combination of full-time certificated employees and part-time certificated employee assignments that aggregate to the amount of instructional time specified in the contract of a full-time certificated classroom teacher of the district or county office of education.

5 CCR 11702. (a) Independent study shall be based on a written agreement signed by the pupil, the pupil's parents or legal guardian if the pupil is less than 18 years of age, the certificated employee who has been designated as having responsibility for the general supervision of independent study, and all persons who

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have direct responsibility for providing assistance to the pupil.

(b) This agreement shall include, but shall not be limited to, each of the following:

(1) The manner, frequency, time, and place for submitting a pupil's assignments and for reporting his or her progress.

(2) The title and statement of the major objectives of the course of study to be undertaken.

(3) The specific resources, including materials and personnel, which will be made available to the pupil.

(4) The method utilized to evaluate the pupil's work.

(5) A statement of the policies adopted by the district or county office governing board, pursuant to subdivisions (a) and (b) of Education Code Section 51747, regarding the maximum length of time allowed between the assignment and the completion of a pupil's assigned work, and the number of missed assignments which will require an evaluation of whether or not the pupil should be allowed to continue in independent study.

(6) The duration of the independent study agreement. No independent study agreement shall be valid for any period longer than one semester or one-half year for a school on a year-round calendar.

(7) A statement of the number of course credits or, for the elementary grades, other measures of academic accomplishment appropriate to the agreement, to be earned by the pupil upon completion.

(8) A statement that independent study is an optional educational alternative in which no pupil may be required to participate.

To be valid, an independent study agreement must always be filled in completely, with all relevant due dates and information specified at the time the pupil and parent/guardian sign and date the document. The starting date for work under the contract must be subsequent to the date the contract is signed.

Calculating apportionment credit

Independent study a.d.a. is computed on the basis of the student's "product"--that is, study or academic work--as assessed by a certificated county or district employee under whose general supervision the work is performed. For each student, and at least once a month, the supervisor evaluates the work and assigns a time value to it, or approves the evaluation made by a contract employee (5 CCR 11700(i)). Employees of contractors can assist in delivering independent study instruction, but their role does not constitute the general supervision required by §§51747 and 51745.5.

For example, a student's work has a time value of 20 hours if the same amount of work product would have resulted from 20 hours of classroom attendance. Neither the student's physical presence nor the amount of time actually taken to complete the work are determining factors.

In order for a district or county office to claim a day's attendance for independent study students, the students must complete work assignments that, in the professional judgment of the responsible certificated district employee, constitute a day's work for a student at that grade level. Teachers usually make their evaluations in numbers of hours, and these totals are then converted into days for apportionment purposes (in conformance with the applicable day length set by the local governing board as required by §46100--see Chapter II).

If the time value of work a student completes for any given full school week represents less than five times the amount for one regular day, it is up to the teacher to determine how many days are to be credited; that week's record and report then reflect this determination.

Only whole days of attendance may be credited, as illustrated by the following example using a high school student whose local board-specified school day is five hours long. If there were five school days in a particular week and the student did 25 hours' worth of work toward the objectives in accordance with his/her written agreement, the supervising teacher would record "attendance" for five days. However, if the amount of work were assessed as only 18 hours' worth, the teacher would record and report a maximum of three days of attendance--the three hours in excess of the three days would be lost for apportionment purposes (but not necessarily for academic credit purposes).

Regular work completion: apportionment significance

According to §46300(e), "A pupil enrolled in an independent study program shall not be credited with more than one day of attendance per calendar day." Attendance credit is not "bankable": a student who does more than his/her agreement requires, and turns in completed assignments representing more attendance days in a reporting period than the number of school days in that period, cannot use that "excess" work credit for apportionments in the future--nor is that work credit

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applicable against past shortages. Districts or county offices may not claim "extra days" credit any more than they would claim "extra attendance credit" for a regular classroom student who attended six periods when only five were required, put in longer hours of study, or did superior work. As in other instances, however, academic credit is distinct from attendance credit for independent study: a student may and should earn additional units of *academic* credit for "surplus" completed assignments, within the scope of the written independent study agreement.

The independent study agreement described in §51747(c)(1) must include the "manner, time, frequency, and place for submitting a pupil's assignments and for reporting his or her progress." If a pupil's independent study agreement calls for work to be turned in weekly and the student skips a week and turns in two weeks' worth of work the next week, the school may *not* claim two weeks' total attendance on the basis of delayed credit for the first week's late work.

Regular work completion: compulsory attendance significance

The district's independent study policy must indicate when to review students' attendance status; independent study students who fail to complete significant amounts of assigned work on time would perhaps be better served by the regular program of classroom instruction. Compliance with compulsory attendance law via independent study requires a mutual cooperation between school and student, and a non-performing independent study student who is allowed to 'slip through the cracks' is effectively being denied his right to attend school.

Local governing boards must adopt policies for independent study that reflect this underlying concern:

> **5 CCR 11701.** In setting policy pursuant to subdivisions (a) and (b) of Education Code Section 51747, the local governing board shall consider, in a public hearing, the scope of its existing or prospective use of independent study as an instructional strategy, its purposes in authorizing independent study, and factors bearing specifically on the maximum realistic lengths of assignments and acceptable number of missed assignments for specific populations of pupils. Adopted policies shall reflect an awareness that excessive leniency in their terms can result in pupils falling so far behind their age peers as to increase, rather than decrease, the risk of their dropping out of school.

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Recording independent study attendance

Independent study records are part of the audit trail that a district must maintain:

> **5 CCR 11703.** (a) Maintaining records to meet audit requirements is the responsibility of the local district or county superintendent's office. These records may be on site(s).
>
> (b) Records shall include but not be limited to the following:
>
> (1) A copy of the adopted school board policy and procedures.
>
> (2) A file of all agreements, including representative samples of each pupil's completed and evaluated student assignments as determined by the school district or county superintendent's office, as appropriate.
>
> (3) A list of pupils who have participated that shows credits attempted by and awarded to each pupil per agreement.
>
> (4) An attendance register separate from other attendance records.

One of the required records set out in 5 CCR 11702 is "an attendance register separate from other attendance records," but this separate register may (and often should) be coordinated with a master register. If a pupil goes on independent study for a short time, for example for two weeks during a family vacation, it is inappropriate to disenroll the pupil from the regular class, then re-enroll him or her when s/he returns. Instead, the teacher can simply put (for example) an "i" or other distinguishing symbol in the regular register, then keep track of the pupil in the independent study register during the two weeks. When local policy allows a student to combine regular classroom attendance and independent study, administrative problems may result when neither mode of instruction constitutes a minimum day on its own. It is best to avoid the dual recording and reporting that ensues, by arranging the schedule so that the minimum day requirements are entirely met by one method or the other--in such cases the "other" portion of attendance can be disregarded for apportionment attendance accounting purposes.

There are no "excused absences" in independent study. Illnesses, medical appointments, and so on that would be excused absences for traditional classroom students do not apply in independent study; the nature of the written agreement, with its assessment period, allows compensating flexibility.

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Adult students and independent study

Recent changes in the law affect independent study for adult students--particularly, eligibility, limits on claimable a.d.a., the amount of revenue earned per unit of average daily attendance, and the precise definition of "adult" for certain educational settings. There are three basic categories of adult independent study: students taking adult education classes (newly authorized), specifically defined adults taking only K-12 classes, and specifically defined adults who are taking K-12 classes *and* who are then concurrently enrolled in adult education classes.

Students taking adult education classes through independent study earn the same local revenue limit as they would by taking the classes regularly. For specifically defined adults taking K-12 classes through independent study, the funding is "phased-down" over three years to the statewide average adult revenue limit, and claimable a.d.a. is "capped" during that period:

> **§46300.1.** (a) For the 1990-91 and 1991-92 fiscal years, no school district or county office of education may receive apportionments for independent study by pupils 21 years of age or older, or by pupils 19 years of age or older who have not been continuously enrolled in kindergarten or any of grades 1 to 12, inclusive, since their 18th birthday for average daily attendance in excess of the number of units of average daily attendance generated by such pupils in the 1988-89 fiscal year. [A subsequent Budget Act provision allows districts to substitute 1987-88 a.d.a. if they had no qualifying apportionments in 1988-89.]
>
> (b) Commencing with the 1990-91 fiscal year, apportionments for pupils 21 years of age or older, and for pupils 19 years of age or older who have not been continuously enrolled in kindergarten or any of grades 1 to 12, inclusive, since their 18th birthday in independent study under Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28, who are enrolled in kindergarten or any of the grades 1 to 12, inclusive, shall be reduced over a two-year period to the statewide average level per average daily attendance paid for pupils in adult education according to the following schedule:
>
> (1) For the 1990-91 fiscal year, independent study pupils 21 years of age or older, and pupils 19 years of age or older who have not been continuously enrolled in kindergarten or any of grades 1 to 12, inclusive, since their 18th birthday generate a revenue limit equivalent to 166 percent of the statewide average level per unit of

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average daily attendance paid for pupils in adult education.

(2) For the 1991-92 fiscal year, independent study pupils 21 years of age or older, and pupils 19 years of age or older who have not been continuously enrolled in kindergarten or any of grades 1 to 12, inclusive, since their 18th birthday generate a revenue limit equivalent to 132 percent of the average adult education revenue limit.

(3) For the 1992-93 fiscal year and each fiscal year thereafter, independent study pupils 21 years of age or older, and pupils 19 years of age or older who have not been continuously enrolled in kindergarten or any of grades 1 to 12, inclusive, since their 18th birthday generate a revenue limit equivalent to 100 percent of the average adult education revenue limit.

§46300.4. If a pupil 21 years of age or older, or pupils 19 years of age or older who has not been continuously enrolled in kindergarten or any of grades 1 to 12, inclusive, since his or her 18th birthday, is pursuing adult education coursework through independent study, his or her attendance shall be eligible for apportionment only if the coursework meets the requirements for a high school diploma. This section shall become operative on July 1, 1990.

For specifically defined adults taking K-12 classes through independent study and who are also concurrently enrolled in adult education classes, the concurrent adult education attendance credit earns the adult education revenue limit, not the K-12 revenue limit:

§46300.3. Apportionments paid for concurrent enrollment in adult education by independent study pupils 21 years of age or older, and pupils 19 years of age or older who have not been continuously enrolled in kindergarten or any of grades 1 to 12, inclusive, since their 18th birthday, shall not exceed the adult education revenue limit. This section shall become operative on July 1, 1990.

Juvenile Court Schools

Statutory basis

The Education Code provides for public schools in juvenile halls, juvenile homes, day centers, juvenile ranches, camps, and so on, in §48645 and following. Consistent with §46300(a), the administration of the juvenile court school may be provided either by the county board of education or by contract with the governing board of the local school district:

> **§48645.2.** The county board of education shall provide for the administration and operation of juvenile court schools established pursuant to Section 48645.1:
>
> (a) By the county superintendent of schools, provided that, in any county in which the board of supervisors is establishing or maintaining juvenile court schools on January 1, 1978, the county superintendent of schools may contract with the board of supervisors for the administration and operation of such schools if agreed between the board of education and the board of supervisors. In any event, the county superintendent of schools may contract with other educational agencies for supporting services to the same extent that school districts may contract with other such agencies.
>
> (b) By contract with the respective governing boards of the elementary, high school, or unified school district in which the juvenile court school is located.

Attendance accounting and a.d.a. calculation

Attendance accounting for juvenile court schools is similar to that for regular classes; juvenile court school is *not* among the programs listed in 5 CCR 406 for which attendance must be reported in clock hours.

The minimum day for juvenile court schools is 240 minutes, with 10-day averaging as the basis for computation but (uniquely) no absolute minimum for any day of the 10. The prerequisite minimum day of attendance for juvenile court school pupils attending work experience programs may also be calculated using the same averaging method:

> **§48645.3.** Juvenile court schools shall be conducted in a manner as shall be prescribed by the county board of education to best accomplish the provisions of Section 48645. The minimum schoolday shall be 240 minutes. Minimum schooldays shall be calculated on the basis of the average number of minutes of attendance during not more than 10 consecutive days in which classes are conducted. The minimum schoolday for pupils in attendance in approved vocational education programs, work programs prescribed by the probation department

Juvenile Court Schools
(continued)

> pursuant to Section 883 of the Welfare and Institutions Code, and work experience programs shall be 180 minutes, which shall be calculated on the basis of the average number of minutes of attendance during not more than 10 consecutive days in which classes are conducted. The county board of education shall adopt and enforce a course of study and evaluate its program in accordance with Sections 51040, 51041, 51050, and 51054 and the provisions of Article 3 (commencing with Section 51200) of Chapter 2 of Part 28, except subdivision (c) of Section 51220.
>
> Juvenile court schools shall not be closed on any weekday of the calendar year, except those weekdays adopted by the county board of education or set aside by the board of education for inservice purposes. However, the board of education may close juvenile court schools when it deems such closing is necessary to accommodate contingencies.

Juvenile court schools have "fixed divisors" for calculating their a.d.a.:

> **§41601.**
>
> * * *
>
> (b) The attendance for schools and classes maintained by the county superintendent of schools and the county school tuition funds shall be reported in the same manner as reported by school districts. The average daily attendance of the school shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175....
>
> * * *

Opportunity Education

Introduction

"Opportunity education" is an alternative placement that may be provided by school districts or county boards of education for pupils who demonstrate irregular attendance or who are at risk of being habitually truant. Opportunity education can serve any grade level:

> **§48635.** An opportunity school may be established as an elementary or secondary school, and an opportunity class or program may be established in any elementary or secondary school of any school district.
>
> **§48636.** The opportunity school, class, or program shall be established and maintained specially for the instruction of such pupils in grades 1 through 12, inclusive, as are assigned thereto by the city superintendent of schools, or, if there is no city superintendent, the board of education of any city or city and county, or the county superintendent of schools as provided by this code.
>
> **§48637.** The governing board of any school district, or the district superintendent of schools, or any person designated by the governing board in writing, may assign pupils to an opportunity school, class, or program in accordance with the provisions and purposes of this article.
>
> **§48637.1.** No pupil shall be required to attend an opportunity school, class, or program for adjustment purposes until both the pupil and the pupil's parent or guardian have been notified in writing of the intended assignment. The notice to the parent or guardian, insofar as is practicable, shall be in the parent or guardian's primary language and shall request the parent or guardian to respond within 10 days. Absent a response from the parent or guardian the person responsible for assigning the pupil shall make a reasonable effort to contact the parent or guardian by telephone to communicate directly the information contained in the written notice.

Differences between program and class

An opportunity *program* pupil also attends regular school, for a total of the minimum day appropriate to his/her grade level; a pupil assigned to an opportunity *class* or opportunity *school*, in contrast, must attend a minimum day of at least 180 minutes therein:

> **§48632.** "Opportunity program" as used herein refers to a program which is in accordance with the purposes

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(continued)

> and provisions of this article and is established in any elementary or secondary school of a school district for less than the minimum day required of opportunity school or class pupils.
>
> **§46180.** The minimum day in an opportunity school or opportunity class is 180 minutes. A pupil may be enrolled in an opportunity program for not less than a class period of the school, nor more than 179 minutes per day. Attendance for a pupil enrolled in an opportunity program shall be credited to the regular class attendance.
>
> A pupil who is enrolled in both an opportunity program and a regular school, shall attend school for a period of time not less than the minimum schoolday required for the grade level in which he is enrolled.

Opportunity programs differ from opportunity classes in their respective recording and reporting requirements (in part owing to their different funding sources). As CDE has advised districts, opportunity *class* and opportunity *school* attendance is kept on the same basis as regular classes (apportionment-excused absences are possible pursuant to §46010)--whereas opportunity *program* attendance, consistent with a Budget Act provision, is kept on an hourly basis, with no apportionable absences (see comments on hourly attendance accounting and reporting in Chapters III and V).

A.d.a. calculations

A.d.a. for opportunity *classes* and *schools* is calculated in the same manner as for regular classes. For opportunity *programs*, CDE has advised (on the basis of a three-hour day of attendance and 135-day "fixed" P-2 divisor) that 405 hours of attendance constitutes one unit of a.d.a. for apportionments.

Special funding in grades 7-9

Additional funding has been provided in the State budget on an annually renewed basis for districts providing opportunity education to pupils in grades 7-9, inclusive:

> **§48643.** It is the intent of the Legislature in enacting this article to increase the availability of opportunity classes and programs operated pursuant to Article 2 (commencing with Section 48630) of this chapter for pupils enrolled in grades 7 to 9, inclusive.

To be eligible for this increased funding, a district must demonstrate that the costs of providing its opportunity education exceed the reimbursements provided in the

Opportunity Education
(continued)

regular apportionment. For current provisions regarding opportunity education funding, see the most recent applicable CDE advisories.

Truancy

Truancy laws apply in opportunity education as in other educational settings:

> **§48638.** If any pupil assigned to an established opportunity school, class, or program is an habitual truant, or is irregular in attendance at such opportunity school, class, or program, or is insubordinate or disorderly during attendance at such opportunity school, class, or program, the supervisor of attendance or such other persons as the governing board of the school district or county may designate shall refer the pupil to a school attendance review board in the county. If the school attendance review board determines that available community services cannot resolve the problem of the truant or insubordinate pupil, it shall direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. If the court upon hearing the case finds that the allegations are sustained by the evidence, the court, in addition to any other judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the child shall deliver him at the beginning of each schoolday, for the remainder of the school term, to the opportunity school, class, or program designated by school authorities.

Regional Occupational Centers and Programs

Admission to ROC/P's

The operational details of ROC/P eligibility lie outside the scope of this manual. The relevant statutes are included for reference, but detailed questions should be directed to the appropriate CDE program administrators.

Admission to ROC/P's, including the grounds for admitting pupils under 16 years of age, is covered in:

> **§52314.** (a) Except as provided in subdivision (b), any pupil eligible to attend a high school or adult school in a school district subject to the jurisdiction of a county superintendent of schools operating a regional occupational center or regional occupational program, and who resides in a school district which by itself or in cooperation with other school districts, has not established a regional occupational center, or regional occupational program, is eligible to attend a regional occupational center or regional occupational program maintained by the county superintendent of schools. Any school district which in cooperation with other school districts maintains a regional occupational center, or regional occupational program, or any such cooperating school districts may admit to the center, or program, any pupil, otherwise eligible, who resides in the district or in any of the cooperating districts. Any school district which by itself maintains a regional occupational center, or regional occupational program, may admit to the center, or program, any pupil, otherwise eligible, who resides in the district. No pupil, including adults under Section 52610 shall be admitted to a regional occupational center, or regional occupational program, unless the county superintendent of schools or governing board of the district or districts maintaining the center, or program, as the case may be, determines that the pupil will benefit therefrom and approves of his or her admission to the regional occupational center or regional occupational program.
>
> A pupil may be admitted on a full-time or part-time basis, as determined by the county superintendent of schools or governing board of the school district or districts maintaining the center, or program, as the case may be.
>
> A county superintendent of schools maintaining a regional occupational program or regional occupational center may admit pupils residing in the county but outside of school districts participating in the county regional occupational program or regional occupational center pursuant to the provisions of Section 46617.5

Regional Occupational Centers and Programs
(continued)

[renumbered 46608]. The county superintendent of schools may authorize pupils who reside in school districts participating in the regional occupational center or regional occupational program conducted by the county superintendent of schools to enroll in other regional occupational programs or regional occupational centers when it is determined that it is in the best interest of the pupils to do so. This attendance shall be pursuant to an attendance agreement specifying that the county superintendent of schools authorizes the regional occupational center or regional occupational program conducting the classes to report the average daily attendance in the classes to the district of residence for the purpose of receiving state apportionments and determining the revenue limit. The agreements shall specify that the district of residence shall pay the regional occupational program or regional occupational center the actual cost per unit of average daily attendance.

(b) No pupil shall be eligible to be admitted to a regional occupational center or program, nor may his or her attendance be credited to a regional occupational center or program, until he or she has attained the age of 16 years, unless the pupil meets one or more of the following conditions:

(1) The pupil is enrolled in grade 11 or a higher grade.

(2) The pupil received a referral and:

(A) The pupil is referred to a regional occupational center or program by a school counselor, school administrator, or classroom teacher. The referral shall include a written statement of the reasons why the pupil's educational needs cannot be met without the pupil being enrolled in a regional occupational center or program. Pupils under 16 years of age eligible for enrollment in regional occupational centers and programs under this paragraph include, but are not necessarily limited to, pupils for whom there is a high probability that they will leave school prior to graduation.

(B) The referral is reviewed and approved by the principal of the school in which the pupil is enrolled.

(C) The referral is reviewed and approved by the director of the regional occupational center or program to which the pupil has been referred.

(D) The pupil is enrolled in a high school, which, for purposes of this requirement, means a school that maintains any of grades 9 to 12, inclusive.

(3) The pupil's individualized education program adopted pursuant to the requirements of Chapter 2

Regional Occupational Centers and Programs

(continued)

> (commencing with Section 56300) of Part 30 prescribes occupational training for which his or her enrollment in a regional occupational center or program is deemed appropriate.
>
> (c) Each school district, county superintendent of schools, or joint powers agency which maintains a regional occupational center or regional occupational program shall submit to the State Department of Education, at the time and in the manner prescribed by the Superintendent of Public Instruction, the enrollment and average daily attendance for each grade level and the enrollment and average daily attendance for each exemption set forth in subdivision (b).
>
> The State Department of Education shall submit this information to the Legislature and to the Director of Finance by April 1 of each year for the preceding school year.

ROC/P admission is also open to youths who have been not enrolled in school for more than three months during the regular school year:

> **§52314.5.** A regional occupational center or program established and maintained by a county superintendent of schools, school districts, or joint power agencies pursuant to Section 52301 shall admit youths between the ages of 16 and 18 years who are eligible to attend a high school in a school district, but who have not been enrolled on a full-time or part-time basis for a period of more than three months during the regular school year, on the same basis as, and applying the same criteria for admission as would be applied to, any pupil enrolled in a high school in a school district who is eligible to attend the regional occupational center or program.
>
> It is the intent of the Legislature that pupils admitted to a regional occupational center or program under this section shall be encouraged to return to high school in order to acquire the knowledge and skills necessary to prepare them for adult life.

If a pupil's ROC/P attendance results in hardship because of travel time, the pupil may be excused from physical education classes, with concomitant reduction of his/her regular high school minimum schoolday:

> **§52316.** Any pupil enrolled in grade 10, 11, or 12, and who is also attending a regional occupational center or regional occupational program may be excused from attending courses in physical education by the governing

Regional Occupational Centers and Programs

(continued)

> board of the school district maintaining grade 10, 11, or 12, and in which the pupil is enrolled, if attendance upon such classes results in hardship because of travel time involved.
>
> If a pupil is excused from physical education classes pursuant to this section, the minimum schoolday for him in his regular high school is 180 minutes.

Special aspects of a.d.a. calculation

Pupils returning to school through ROC/P after having dropped out for three months or more earn a.d.a. credit at the rate given in:

> **§52314.7.** (a) The average daily attendance of pupils admitted to a regional occupational center or program pursuant to Section 52314.5 shall be computed at the rate of average daily attendance available for high school pupils.
>
> (b) This section shall only be operative in a fiscal year for which the Budget Act for that fiscal year limits the amount of funds which may be apportioned for regional occupational centers or programs.

There is a statutory limit on the amount of apportionment credit that can be claimed for ROC/P students under the age of 16:

> **§52314.6.** The average daily attendance claimed for pupils enrolled in a regional occupational center or program pursuant to paragraph (2) of subdivision (b) of Section 52314 shall not exceed 3 percent of the average daily attendance funded in the prior year for the center or program, or the following amount, whichever is greater:
>
> (1) Divide the enrollment of pupils under the age of 16 years in the regional occupational center or program in the 1982-83 fiscal year by three.
>
> (2) Multiply the amount computed pursuant to paragraph (1) by 0.25.

For a pupil whose schedule includes both regular high school and ROC/P, proportional a.d.a. credit is available for the regular high school attendance, but only under the following constraints:

> **§46300.**
>
> * * *
>
> (d) For the purposes of computing the average daily attendance in the educational activities required of high school pupils who are also enrolled in a regional

Regional Occupational Centers and Programs
(continued)

> occupational center or regional occupational program, the school district shall receive proportional average daily attendance credit for those educational activities that are less than the minimum schoolday, pursuant to regulations adopted by the State Board of Education, however, none of that attendance shall be counted for purposes of computing attendance pursuant to Section 52324.
>
> A school district shall not receive proportional average daily attendance credit pursuant to this subdivision for any pupil in attendance for less than 145 minutes each day.
>
> The divisor for computing proportional average daily attendance pursuant to this subdivision is 240; except, in the case of a pupil excused from physical education classes pursuant to Section 52316, the divisor is 180.
>
> Notwithstanding any other provision of law, travel time of pupils to attend a regional occupational center or program shall not be used in any manner in the computation of average daily attendance.
>
> * * *

Note the unique requirement that the pupil must *actually attend* at least 145 minutes--necessarily shown through positive record keeping--in the regular high school to be eligible for each day's proportional a.d.a. credit. Note also that travel time, like any other passing time between one program and another, does *not* qualify as instructional time for incentive funding, nor may it be counted for compulsory attendance purposes.

Two other sections deal with special aspects of ROC/P a.d.a. calculation:

> **§52325.** Any district or county superintendent who operates a 60-minute regional occupational program shall be credited with one-third of a unit of average daily attendance for each student in a 60-minute regional occupational program and two-thirds of a unit of average daily attendance in a 120-minute program.
>
> **§52326.** The minimum day in a regional occupational center is 180 minutes and the minimum day in a regional occupational program is 60 minutes.

It is important to note that in this non-compulsory context, with attendance determined on an hourly basis, "minimum day" has a meaning closer to "day of attendance for apportionments," in that separate sessions of attendance may be taken singly as one-third of a unit of a.d.a. (for a 60-minute program) and aggregated to form two-thirds of a unit of a.d.a. (for a 120-minute program). Put another way, 60 minutes is the threshold of creditable daily attendance--but that 60 minutes may itself be the aggregate of shorter amounts of instruction over the course of the instructional day.

ROC/P pupils also may be credited with more than one day of attendance in a calendar day:

> **§46140.** No pupil in a high school, other than a pupil enrolled in a regional occupational center or program, evening high school, continuation high school, or continuation education class, shall be credited with more than one day of attendance in any calendar day and nothing in this article shall be construed to the contrary.

The "fixed divisors" for computing period and annual ROC/P a.d.a. are given in:

> **§41601.**
>
> * * *
>
> (c) The days of attendance in classes for adults and regional occupational centers programs shall be reported in the same manner as all other attendance under subdivision (a). The average daily attendance in those schools and classes shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 85 in the second period by 135 and at annual time by 175.
>
> * * *

Recording and reporting

ROC/P attendance must be reported by clock hour:

> **5 CCR 406.** Attendance shall be reported in clock hours for the following:
>
> * * *
>
> (e) Pupils in regional occupational centers or regional occupational programs.
>
> * * *

(See comments on hourly attendance accounting and reporting in Chapters III and V.)

Regional Occupational Centers and Programs
(continued)

Interdistrict ROC/P attendance

Interdistrict attendance in ROC/P is covered in:

§46608. A regional occupational program or regional occupational center maintained by a school district, or a regional occupational program or regional occupational center maintained by two or more school districts pursuant to a joint powers or cooperative agreement, may admit pupils who reside outside the attendance area of the regional occupational program or regional occupational center by written agreement with the school district in which the pupils reside. If the pupils reside within a school district participating in a regional occupational program or regional occupational center maintained by a county superintendent of schools the agreement shall be approved by the county superintendent. If the pupils reside in a school district participating in a regional occupational program or regional occupational center pursuant to a joint powers or cooperative agreement, the agreement shall be approved by the governing board of the district or districts maintaining the program.

A county superintendent of schools may admit to regional occupational programs or regional occupational centers, pupils who reside in school districts that are not participating in these regional occupational programs or regional occupational centers, by written agreement with the school district in which the pupils reside. If the pupils reside in a school district participating in a regional occupational program or regional occupational center pursuant to a joint powers or cooperative agreement, the agreement shall be approved by the governing board of the district or districts maintaining the program.

A regional occupational center or program established and maintained pursuant to Section 52301 that admits students by agreement pursuant to this section shall receive in annual operating funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit received by such districts for each unit of average daily attendance generated in the regional occupational center or program. However, no district shall be required to pay more than the county revenue limit as determined pursuant to Section 52317 in those instances where the county is maintaining the regional occupational center or program, or the actual cost per unit of average daily attendance in those regional occupational centers or programs which are operated pursuant to a joint powers agreement or cooperative arrangement. The fiscal arrangements shall be specified in the written agreement.

In no case shall any revenue derived from average daily attendance in regional occupational centers and programs be retained by the district of residence.

§52317. The governing board of any regional occupational center or program operated by a joint powers agency, a single district, or a county superintendent of schools maintaining a county regional occupational center or program, may admit to its programs or classes, on a full-time or part-time basis, any person who can benefit from the program or class, including a person who does not reside in the attendance area of the center or program, if there are openings in the program or class. For purposes of this section, an interdistrict attendance agreement shall not be required for out-of-district enrollments.

Under no circumstances shall any person be enrolled in a regional occupational center or program pursuant to this section in a manner which contradicts delineation of function agreements.

* * *

§46606. The average daily attendance for attendance of pupils who reside outside of the regional occupational center or program attendance area and are enrolled in a regional occupational center or program pursuant to Section 52317 shall be credited to the regional occupational center or program that incurs the training costs for purposes of determining state apportionments and the revenue limits. For purposes of computing the revenue limits for pupils who enroll in a regional occupational center or program outside their district of residence, the regional occupational center or program shall claim its own revenue limit.

The regional occupational center or program is not eligible for state reimbursement for home-to-school transportation allowances for pupils who are enrolled in the regional occupational center or program pursuant to this section.

Compulsory attendance implications

Under certain conditions, a pupil's attendance in ROC/P satisfies the requirements of compulsory continuation attendance:

Regional Occupational Centers and Programs
(continued)

§48400.

* * *

Such minimum attendance requirement of four 60-minute hours per week [for regularly employed 16- and 17-year-olds] may be satisfied by any combination of attendance upon special continuation education classes and regional occupational centers or programs.

§48432.

* * *

If there is a regional occupational center or program as provided in Article I (commencing with Section 52300) of Chapter 9 of Part 28, of this division within a county, the governing board of any school district within that county may enroll minors, otherwise subject to, and in lieu of, continuation education, in the center or program in accordance with the provisions of Section 52314.

Any minor admitted to a regional occupational center or program under the provisions of Section 52314.5 shall be considered to have enrolled in the regional occupational center or program in lieu of continuation education classes. Nothing in this section shall prohibit a minor from enrolling in a program of continuation education or a regular high school program if the minor voluntarily chooses to enroll in the program.

Districts having or participating in regional occupational centers must ensure that their centers and continuation education programs, alone or in combination, provide at least four hours of instruction weekly to each of their pupils eligible for continuation education.

§48433. Special continuation education classes or classes conducted by a regional occupational center or any combination thereof shall provide at least four 60 minute hours of instruction per week for each minor within the high school district who is subject to compulsory continuation education.

§48434. (a) Except as otherwise provided in subdivision (b), such classes shall be maintained during the district's regular school hours, or during special school hours for these classes established by the governing board.

(b) If the school district maintains classes for adults, the governing board of the school district may maintain continuation education classes during such hours and for

Regional Occupational Centers and Programs
(continued)

such length of time during the day or evening as the classes for adults are maintained.

As noted, travel time or passing time between regular education and ROC/P may not be counted for compulsory attendance purposes.

Weekend Classes; Summer School, Saturday School

General considerations

The law does not permit the public schools to require pupils to attend school on Saturdays and Sundays, except that "truants" as defined in §48260 (absent without excuse on more than three days or more than 30 minutes tardy on more than three days) may be required to attend weekend make-up sessions. Regular apportionment credit may be earned for such compulsory make-up classes, as well as for pupils who voluntarily attend make-up or other types of classes held on Saturdays:

> **§37223.** The governing board of any elementary, high school, or unified school district or any county superintendent of schools may maintain classes on Saturday or Sunday, or both.
>
> The classes may include, but are not limited to, continuation classes, special day classes for mentally gifted minors, makeup classes for unexcused absences during the week, and the programs of a regional occupational center or regional occupational program.
>
> Except as otherwise provided in this code, the attendance of any pupil in a class or program held on a Saturday or Sunday shall not result in the crediting of more than five days of attendance for the pupil per week.
>
> Attendance at classes conducted on Saturday or Sunday, or both, shall be at the election of the pupil or, in the case of a minor pupil, the parent or guardian of the pupil. However, the governing board may require truants, as defined by Section 48260, to attend makeup classes conducted on one day of a weekend.
>
> Except as otherwise provided in this code, any class which is offered on a Saturday or Sunday shall be one offered during the regular Monday through Friday school week.
>
> * * *

Note that although educational agencies are prohibited from claiming more days of regular attendance credit as a result of Saturday classes than the total the pupil could have earned without attending on a weekend, a limited exception occurs for adult education programs and ROC/P's. It is possible for adult education pupils and ROC/P pupils, who are permitted to earn more than a day's attendance credit in a calendar day (see §§46140 and 46190), to earn more than five days' credit in a week without attending on a weekend. ROC/P's and adult education programs *may* claim further credit for the weekend attendance of their pupils *if* the individual pupils have *already* earned *more than* five days' attendance credit in a week.

Weekend Classes; Summer School, Saturday School

(continued)

Summer school and variants

School districts are allocated certain funding with which to provide summer school or Saturday school (unrelated to the weekend classes permitted in §37223) sessions or some combination of both--and in year-round schools, late afternoon sessions as well. The exact funding amounts are subject to yearly adjustments in the state Budget Act, but for attendance accounting purposes the most important fact is that summer school attendance must be reported by clock hour:

> **5 CCR 406.** Attendance shall be reported in clock hours for the following:
>
> * * *
>
> (f) Pupils in summer schools.
>
> * * *

(See comments on hourly attendance accounting and reporting in Chapters III and V.)

There is no statutory minimum day for summer school:

> **§42239.**
>
> * * *
>
> (f) Notwithstanding any other provision of law, [summer school] classes may be convened pursuant to this section at the hours and for the length of time during the schoolday, and at the period and for the length of time during the school year, as may be determined by the governing board of the school district.

Separate Budget Act funding is provided for the summer school sessions districts *must* offer to pupils who have failed to reach locally established proficiency levels:

> **§37252.** (a) The governing board of each district maintaining any or all of grades 7 to 12, inclusive, shall offer summer school instructional programs for pupils enrolled in grades 7 to 12, inclusive, who were assessed as not meeting the district's adopted standards of proficiency in basic skills pursuant to Article 2.5 (commencing with Section 51215) of Chapter 2 of Part 28 [not included in this manual].
>
> For purposes of this section, a pupil shall be considered to be enrolled in a grade immediately upon completion of the preceding grade.
>
> (b) The summer school programs shall be offered to pupils who were enrolled in grade 12 during the prior school year after the completion of grade 12, and upon the successful completion of the summer program, these

Weekend Classes; Summer School, Saturday School

(continued)

pupils may be reassessed for purposes of meeting the district's standards of proficiency.

Saturday school attendance may receive summer school funding if specific requirements are met:

> **§42239.5.** (a) For the 1989-90 fiscal year and each fiscal year thereafter, average daily attendance generated by elementary and secondary school pupils in voluntary Saturday school programs shall be eligible for summer school apportionments calculated pursuant to Section 42239 if those programs meet the following conditions:
>
> (1) The instruction is in core academic areas..., or as specified for summer school in Section 37252 and subdivision (a) of Section 37253, or in a course that provides credit towards high school graduation.
>
> (2) The instruction is provided on Saturday and does not exceed 180 minutes.
>
> (3) The average pupil/teacher ratio does not exceed 20:1.
>
> (4) Attendance by the pupils is not required by the participating schools and districts.
>
> (b) Any minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program established pursuant to this section for religious reasons, or any pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program established pursuant to this section for religious reasons, shall be given priority over other pupils who have attended the Saturday school program for enrollment in the regular summer school program if he or she chooses to enroll in the regular summer school program.
>
> * * *

Note that combining sessions on Saturdays pursuant to §37223 with those conducted pursuant to §42239 would present significant administrative challenges. Classes conducted pursuant to §37223 are subject to the same minimum day requirements as the regular classes for which they substitute (often 240 minutes), whereas classes conducted pursuant to §42239 may not be more than three hours (180 minutes) long. Potentially even more burdensome, from a cost/benefit point of view, is that the maximum 20:1 pupil/teacher ratio would extend to the total combined class.

Weekend Classes; Summer School, Saturday School

(continued)

"Summer school" apportionments are also available to fund late-afternoon (see "Year-Round Education," following) and intersession programs in year-round schools, thus facilitating compliance with:

> **§51205.** Pupils enrolled in a year-round school pursuant to Part 22 (commencing with Section 37000) shall have access, as necessary, to an equal educational opportunity as provided during summer school to pupils enrolled in regular school year programs.

Work Experience/Vocational Education

Program requirements for special minimum days

Special, shorter minimum day provisions apply to pupils enrolled in qualifying work experience education programs. A pupil's hours of actual on-the-job work experience normally have no apportionment value in themselves, however, because the pupil must be attending other classes for at least the applicable minimum day (thus earning full apportionment credit) and may not earn a second "day" of credit in the same calendar day through the work experience attendance:

> **§46300.**
>
> * * *
>
> (b) For the purposes of a work experience education program in a secondary school that meets the standards of the California State Plan for Vocational Education, the term "immediate supervision," in the context of off-campus work training stations, means pupil participation in on-the-job training as outlined under a training agreement, coordinated by the school district under a state-approved plan, wherein the employer and certificated school personnel share the responsibility for on-the-job supervision. The pupil-teacher ratio in a work experience program shall not exceed 125 pupils per full-time equivalent certificated teacher coordinator. Notwithstanding Section 52033, this ratio may be waived by the State Board of Education pursuant to Article 3 (commencing with Section 33050) of Chapter I of Part 20 under criteria developed by the State Board of Education.
>
> A pupil enrolled in a work experience program shall not be credited with more than one day of attendance per calendar day, and shall be a full-time student enrolled in regular classes that meet the requirements of Section 46141 [240 minutes] or 46144.
>
> * * *
>
> **§46144.** The minimum day in...vocational training programs and for pupils enrolled in a work experience education program approved under Article 7 (commencing with Section 51760) of Chapter 5 of Part 28, except pupils enrolled in a continuation school or class pursuant to Section 48402 ["minors not regularly employed"], is four periods totaling at least 180 minutes in duration.
>
> **§46147.** Notwithstanding the 180-minute minimum day requirement of Section 46144, the governing board of any school district may permit a 12th-grade pupil in his or her last semester or quarter, as the case may be,

Work Experience/Vocational Education
(continued)

before graduation, who is enrolled in a work experience education program approved under the provisions of Article 7 (commending with Section 51760) of Chapter 5 of Part 28 and who would complete all of the requirements for graduation by attending high school, except courses of physical education, for less than a minimum day of 180 minutes, upon the written request of a parent or legal guardian or upon his or her own request if the pupil is 18 years or age or over. If a pupil attends classes for less than 180 minutes per day pursuant to this section, the number of minutes actually attended per day shall be rounded down to the nearest multiple of 60. The average daily attendance allowed for that pupil's attendance shall bear the same proportion to one day of attendance as the number of minutes of attendance per day bears to 180.

Combined work experience and continuation education

Work experience hours *can* have apportionment value when combined with continuation education, in which a regularly employed pupil is subject to a four-hour minimum weekly attendance requirement (§48400). In a common pattern of practice, a pupil with a work experience schedule of 10 hours a week (consistent with the credit limitation of §51760.3) also attends continuation classes for an hour a day, five days a week, producing total weekly attendance of 15 hours--the maximum credit possible in continuation. Note that CDE has for many years advised districts that *no* apportionment credit is to be claimed in any week for the work experience hours of a regularly employed continuation pupil, *unless* the pupil has in fact met his/her four-hour continuation attendance requirement in that week.

> **§51760.3.** The governing board of any school district offering work experience education pursuant to the authority of Section 51760 shall grant credit to pupils satisfactorily completing a work experience program, in an amount not to exceed 40 semester credits, of which no more than 10 credits may be conferred in any one semester, provided the pupil meets all of the following requirements:
>
> (a) At the time of enrollment, the pupil is at least 16 years of age. Pupils under the age of 16 years may receive credit for work experience education under the following conditions:
>
> (1) The pupil is enrolled in grade 11 or a higher grade.
>
> (2) The principal of the school in which the pupil is enrolled certifies that the pupil is in need of immediate work experience education in order to pursue employment opportunities.

Work Experience/Vocational Education
(continued)

(3) The principal of the school in which the pupil is enrolled certifies that there is a probability that the pupil will no longer be enrolled as a full-time pupil without being provided the opportunity to enroll in a work experience education program.

(4) The pupil's individualized education program adopted pursuant to the requirements of Part 30 (commencing with Section 56000), prescribes the type of training for which participation in a work experience program is deemed appropriate.

(b) During the course of the pupil's enrollment in the program, the pupil receives as a minimum the equivalent of one instructional period per week of classroom instruction or counseling by a certificated employee. The instruction or counselling shall be offered in sessions scheduled intermittently throughout the semester.

(c) The work experience education program meets all of the requirements of law governing these programs.

Reporting requirements

Attendance accounting for work experience pupils must be reported by clock hour; apportionment-excused absences are not allowed:

> **5 CCR 405.** For apportionment purposes, in a situation described in (a), (b), or (c) of this section, only a pupil's actual attendance upon regular day school or class shall be counted. Such attendance shall be recorded in clock hours.
>
> * * *
>
> (b) Work Experience Class. He is enrolled in a work experience class. In this case his attendance is the sum of the hours of his actual attendance upon the regular school or class, plus the hours of attendance in the work experience class which meet the requirements of Section 46300 of the Education Code.
>
> * * *

> **5 CCR 406.** Attendance shall be reported in clock hours for the following:
>
> * * *
>
> (c) Pupils enrolled in work experience programs.
>
> * * *

(See comments on hourly attendance accounting and reporting in Chapters III and V.)

Work Experience/Vocational Education
(continued)

Vocational education and ROC/P

Further restrictions apply to vocational education conducted in conjunction with regional occupational centers or programs:

> **§51760.5.** Notwithstanding Section 51760, attendance in work experience classes or programs maintained by a regional occupational center or regional occupational program shall not receive apportionments from state funds unless such classes or programs are in conformance with standards adopted pursuant to Section 52372.
>
> A student enrolled in a vocational education class using the cooperative vocational education methodology conducted by a regional occupational center or program shall not be credited with more than 15 hours of attendance in any calendar week for the purposes of the methodology.

Year-Round Education

Statutory authorization

Attendance accounting in year-round educational settings (sometimes called "continuous school programs") differs in few respects from attendance accounting in regular schools.

> **§37670.** (a) Notwithstanding any other provision of law, any school district may operate a program of year-round scheduling at one or more schools within the district for as few as 163 days in each fiscal year so long as the number of instructional minutes is not less than that of school of the same grade levels utilizing the traditional school calendar.
>
> (b) All certificated employees under this program, except those serving under an administrative or supervisorial credential and who are assigned full time to a school in positions requiring qualifications for certification, shall work the same number of days and shall increase the number of minutes worked daily on a uniform basis.
>
> (c) A program conducted pursuant to this section shall be eligible for apportionment from the State School Fund.
>
> **§37671.** Approval of programs provided for in Section 37670 shall exempt the affected district and schools from the requirements of [Section] 37202 [annual length of time in session must be equal by type of school, within districts].
>
> **§37672.** No pupil participating in programs as described in Section 37670 shall be credited with more than one day of attendance in any calendar day, except as permitted in Section 46140.
>
> Average daily attendance generated in the regular elementary, junior high, and high schools operated under Section 37670 shall be calculated as prescribed in subdivision (a) of Section 41601.

Note that Section 37670 also applies when determining eligibility for "longer year" incentive funding (see "Instructional Time Requirements," Chapter III).

Apportionment consequences

The law provides that school districts shall not gain any general apportionment benefit by offering year-round scheduling:

> **§37640.** Each school district maintaining a continuous school program in any school within the district pursuant to this chapter shall be entitled to receive the

Year-Round Education
(continued)

> same support, but not more support, from the State School Fund due to the average daily attendance at such school that it would have received if the school had been operating under the provisions of law relating to the regular school year, including summer school.

In accordance with this section, when a student is, for instance, transferred within a district from a track in a year-round school to a later-starting conventional-schedule school, the divisor used to calculate the pupil's a.d.a. must be increased by the number of school days in the year-round track prior to the start of instruction in the conventional school.

Similarly, if a pupil in a year-round track is enrolled in a second track during the first track's intersession and his/her intersession attendance is claimed for regular apportionments, the number of school days in the intersession must be added to the pupil's divisor when calculating his/her a.d.a.

In certain alternative year-round schools having no master tracks, each pupil may be his/her own track--the first day of which is the day on which the pupil first enrolls. Note that subsequent days of unexcused non-attendance may *not* be excluded from the pupil's individual divisor.

In addition to being available to fund intersession classes and Saturday school, "summer school apportionments" authorized by §42239 may also be available to fund after-school programs in year-round schools:

> **§42239.6.** (a) Elementary and secondary school pupils in voluntary after-school programs in multitrack year-round schools shall be eligible for summer school apportionments calculated pursuant to Section 42239 if those programs meet the following conditions:
> (1) The instruction supplements the regular instructional program in the core academic areas specified in paragraph (2) of subsection (d) of Section 42239.
> (2) The instruction is provided after the end of the full schoolday offered for the purposes of incentive funding pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26, and does not exceed 120 minutes.

Year-Round Education
(continued)

(3) Attendance is not required by the participating schools and districts.

(b) Participating school districts shall encourage the participation of elementary and secondary schools with low academic performance.

Definition of key terms

Section 41601 defines several key terms for attendance reporting (including the division of the fiscal year into "apportionment periods"), and lays out the basis for awarding apportionments according to "average daily attendance":

> **§41601.** For the purposes of this chapter, the governing board of each school district shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment. The county superintendent of schools shall report the average daily attendance for the schools and classes maintained by him or her and the average daily attendance for the county school tuition fund.
>
> Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Superintendent of Public Instruction.
>
> * * *

The "first period" is more commonly known as "P-1," the second period as "P-2."

Public disclosure requirements

Certain attendance accounting information must be made available to the public:

> **§48342.** The governing board of each school district shall annually disclose to the public actual pupil attendance rates for each school in the district.

> **§48342.5.** School districts and county offices of education shall annually certify to the Superintendent of Public Instruction that they have complied with the requirements of Section 48342 regarding the annual disclosure of actual pupil attendance rates.

Basic recordkeeping and reporting requirements

Both the Education Code and the CCR specify recordkeeping and reporting requirements:

5 CCR 400. Records of attendance of every pupil in the public schools shall be kept for the following purposes:

(a) For apportionment of State funds.

(b) To insure general compliance with the compulsory education law, and performance by a pupil of his duty to attend school regularly as provided in Section 300 (see Chapter I).

§46000. Attendance in all schools and classes shall be recorded and kept according to regulations prescribed by the State Board of Education, subject to the provisions of this chapter.

§44809. (a) A state school register shall be kept by every teacher in the public elementary schools, except a teacher in:

(1) A school in which the state school register of each teacher is kept on behalf of the teacher in a central office by an employee of the school district.

(2) A school in which a central file of individual records of pupil enrollment, absence, and attendance is maintained on forms containing at least the minimum items of information prescribed by the State Department of Education, and whose principal submits periodic reports of pupil personnel data to the city or district superintendent of schools, or, if no superintendent is employed in the district, to the county superintendent of schools on forms approved by the State Department of Education.

(b) There shall be recorded in each state school register the absence and attendance of each pupil enrolled in the classes taught by the teacher keeping the register or on whose behalf the register is kept and any additional information required by the State Department of Education.

5 CCR 401. (a) Elementary school attendance shall be kept in a state school register, as required by Section 44809, except when a central file is maintained as authorized by Education Code Section 44809.

(b) High school attendance (including junior high school) shall be kept on forms approved by the State Department of Education.

(c) In all high schools, except those listed in (d) of this section, each teacher shall be required to submit to the principal, at least once each school day, a report of attendance for each period of the day in which he

> conducts classes, listing the names of all pupils absent in any period.
>
> (d) In all classes for adults, continuation schools and classes, and regional occupational centers, and programs, attendance shall be reported to the principal at least once each school month.

Requirements specific to particular programs

The CCR sets out methods for reporting attendance in certain educational settings (see Chapter IV for other details on specific programs):

> **5 CCR 406.** Attendance shall be reported in clock hours for the following:
>
> (a) Pupils enrolled for less than the minimum school day
>
> (b) Pupils in classes for adults whenever held pursuant to the Education Code.
>
> (c) Pupils enrolled in work experience programs.
>
> (d) Pupils enrolled in continuation education schools and classes.
>
> (e) Pupils in regional occupational centers or regional occupational programs.
>
> (f) Pupils in summer schools.
>
> * * *

Pursuant to 5 CCR 404, if a pupil is present for any part of a scheduled hour of attendance in "a class described in Section 406," the pupil is to be credited with the full hour. (When classes subject to hourly attendance accounting are scheduled for more or less than an exact hour or multiple of an hour in each session, resulting attendance credit is aggregated into whole hours for reporting--see "A.d.a.: Basic Definitions and Calculations" in Chapter III). To be credited with a *following* hour (or scheduled portion of an hour) of the same class, the pupil must of course be present for some part of *that* hour. The record, then, must be configured to substantiate that *each* hour or portion of an hour of a pupil's credited attendance was separately determined.

Approval of attendance accounting software systems

School districts must individually obtain CDE approval for their attendance accounting systems; the only exception is for exclusive use of the State School Register (Form J-32) in the elementary grades. Approval for any given system depends on whether or not the system as a whole includes the necessary elements of a clear and complete audit trail, from the individual classroom, through the central data gathering and processing center, to final reports.

Minimum contents of monthly attendance summary reports

As exemplified in the State School Register, a complete monthly attendance summary report sets out at least the following:

- Total enrollment (number of students enrolled for one or more days each)
- Days taught (number of calendar days on which at least a minimum day of instruction was offered, not including Saturday or Sunday classes)
- Total days accountable (total enrollment multiplied by days taught)
- Days not enrolled (total number of days of non-enrollment by all students who were each enrolled for less than the full month)
- Days absent unexcused for apportionment (number of potential student-days of attendance that were lost because of apportionment-unexcused absence; does *not* include days not enrolled)
- Days of actual attendance (number of student-days of actual attendance)
- Days of apportionment attendance (number of student-days of actual attendance plus number of student-days of apportionment-excused absence)
- Average daily attendance (days of apportionment attendance divided by days taught)
- Percent apportionment attendance (days of apportionment attendance divided by days of possible attendance (total days accountable minus days not enrolled), times 100)
- Percent actual attendance (days of actual attendance divided by days of possible attendance [total days accountable minus days not enrolled], times 100)
- Signature line for certification of report

Considerations for software approval process

CDE does not give blanket approval to any commercial vendors' attendance accounting systems. Because of variations in the ways different districts implement and configure given software packages, each district's application for approval must include its own supporting material: vendor documentation alone is never an adequate basis for approval of an attendance accounting system. CDE recommends that a request for system approval should proceed to CDE only after review by the district's independent auditor and County Office of Education.

Samples of "source" or "data origination" documents should accompany a district's application, with appropriate explanations. Supporting information should explain the way the system tracks, verifies, and reconciles absences--especially excused absences claimed for apportionment.

An application should therefore include all forms that transmit information and should indicate when they are compiled and who signs them (for example, are machine-readable forms the basic mode of information gathering or are pupil absences initially recorded in a more traditional classroom register and then transcribed?). All forms and reports must have appropriate legends or directories clearly identifying all codes and symbols, and source documents must have signature lines for the person(s) who prepare them.

The supporting material should also explain the ways a system provides for security of records via passwords or interlocks; for example, while it is acceptable for work-experience students to input data, no student should ever have access to the complete system. The final test of an attendance accounting system lies in the quality and completeness of the reports it yields.

Retention of records

Attendance accounting records are subject to the retention requirements set out in the CCR:

> **5 CCR 16020.** (a) As used in this article, "records" means all records, maps, books, papers, and documents of a school district required by law to be prepared or retained or which are prepared or retained as necessary or convenient to the discharge of official duty.
>
> **5 CCR 16025.** All records not classified as Class 1--Permanent or Class 2--Optional shall be classified as Class 3--Disposable, including but not limited to detail records relating to:
>
> (a) Records Basic to Audit, including those relating to attendance, average daily attendance, or a business or financial transaction (purchase orders, invoices, warrants, ledger sheets, canceled checks and stubs, student body and cafeteria fund records, etc.), and detail records used in the preparation of any other report. Teachers' registers may be classified as Class 3--Disposable only if all information required in Section 432 is retained in other records or if the General Record pages are removed from the register and are classified as Class 1--Permanent.
>
> (b) Periodic Reports, including daily, weekly, and monthly reports, bulletins and instructions.

5 CCR 16026. A Class 3--Disposable record shall not be destroyed until after the third July 1 succeeding the completion of the audit required by Education Code Section 41020 or of any other legally required audit, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later. A continuing record shall not be destroyed until the fourth year after it has been classified as Class 3--Disposable.

Attendance accounting audits

It is a school district's important obligation to maintain a complete, orderly, and consistent audit trail of student attendance reported under the provisions of §41601, so that compliance with all relevant statutes and regulations may be thoroughly verified.

In the event of an "audit exception" in a district's annual independent audit--the auditor notes an instance in which the audit trail is incomplete, conflicting, or when a district is apparently claiming more (or less) apportionment credit than the law allows--a notation may be made in the final audit report, with the district allowed to make a formal response. Final audit reports are sent to the State Controller's Office, which may bring audit exceptions to the attention of CDE for further review and response.

To prevent accounting problems from becoming audit exceptions, CDE encourages school officials responsible for recordkeeping to be in contact with their local auditors more frequently than only during the annual audits themselves. By consulting with their local auditors from time to time as issues arise, districts can alter doubtful practice before it leads to a serious problem.

Common audit exceptions

The most common audit exception is a disagreement between site records and central office records--that is, between the information on the forms used to record attendance and the totals in the periodic compilations of those data by a centralized processing center. For example, a pupil's absence may be counted as excused at the central accounting office, but no record of the confirmation may be found at the school site. Another common audit exception concerns proper retention of records (see "Absences" in Chapter III).

Finally, any amendments to attendance records should be clearly indicated as such, and *added to* the pre-existing record--it is important not to wipe out the altered original and retain only a "clean" monthly summary. In fact, carefully amended records and duly noted updates are viewed by auditors as evidence of a conscientiously maintained audit trail.

Accountability of responsible school district officials

Responsible school district officials are held accountable for attendance accounting and reporting, but state officials have authority to resolve minor and inadvertent noncompliance with laws and regulations:

> **§41609.** (a) It is the intent of the Legislature in enacting this section that responsible school district officials be held fully accountable for the sum and substance of attendance accounting and reporting and also that minor and inadvertent instances of noncompliance shall be resolved in a fair and equitable manner to the satisfaction of the Superintendent of Public Instruction and the Department of Finance.
>
> (b) The Superintendent of Public Instruction, with the approval of the Department of Finance, may waive strict compliance by school districts with the statutes and regulations relating to attendance accounting for purposes of making apportionments from Section A of the State School Fund if he or she determines that the noncompliance involved is minor or inadvertent, or both, according to guidelines adopted by the superintendent.

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